

FINEGAN'S SCHOOL LAW

EIGHTH EDITION

REVISED TO JANUARY 1, 1914



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A TEXT BOOK
ON
NEW YORK SCHOOL LAW

INCLUDING

THE REVISED EDUCATION LAW, THE DECISIONS OF COURTS,
AND THE RULINGS AND DECISIONS OF STATE
SUPERINTENDENTS AND THE COM-
MISSIONER OF EDUCATION

Prepared for the use of Normal Schools, Training Classes, Teachers and
School Officers

BY

THOMAS E. FINEGAN, A. M., P. D. D., LL. D.

Attorney and Counsellor-at-Law

Assistant Commissioner for Elementary Education of
the State of New York

EIGHTH EDITION

REVISED TO JANUARY 1, 1914



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PUBLISHER'S ANNOUNCEMENT.

This Eighth Edition is completely revised to January 1, 1914, giving the law as in force at that date. Attention is especially called to Chapter XXX, which treats the new law relating to the retirement of teachers, and to Chapter XXXI which explains the provisions of the new medical inspection law.

January 5, 1914.

PREFACE TO SIXTH EDITION.

In preparing this work the author has endeavored to arrange in systematic form the provisions of law relating to the public school system of the state. He has also endeavored to give as much on the historical development of the school system as might be pertinent in a work of this nature. His aim has been to express the provisions of law in the simplest manner possible, and to avoid all legal phraseology. He has written this after an experience of twenty-five years in various fields of public school work and with an earnest desire to make it of the greatest possible service to the teachers and school officers of the state.

At the beginning of each chapter reference is given to the section or title of the education law on which the chapter is based. This reference governs the entire chapter unless other references are given at the end of a paragraph. Reference to the decisions of state superintendents or the commissioner of education are by number. These decisions are given in full in *Official Decisions by Finegan*.

At the end of each chapter questions covering the text of the chapter will be found. These questions may help students in review work and in forming a more definite and accurate knowledge of the subject.

THOMAS E. FINEGAN.

Albany, N. Y., November 1, 1910.

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NEW YORK SCHOOL LAW

CHAPTER I

STATE EDUCATION DEPARTMENT

[Article 2]

Historical Sketch.—The Department of the State government which has supervision of all public education is now called the Education Department. Since 1812 there has been a Department or Departments of the State government under different names charged with this duty. The present Department was created by the Unification Act of 1904, is continued under the present education law and is charged with the general management and supervision of all public schools and all of the educational work of the State, and it also includes the operations of the University of the State of New York. The Education Department was organized and its work classified as follows:

BOARD OF REGENTS

General Powers.—The Board of Regents has, subject to the laws of the State, legislative control over the Education Department and State educational policies and such board also exercises all the powers of the University of the State of New York. It approves all appointments made by the Commissioner of Education, and fills any vacancy that may exist in the office of Commissioner of Education.

It gives direction to the work related to admission to the learned professions, to the management of the State library and the scientific work of the State, and to other educational work sustained by the State outside of teaching institutions.

Number.—The law provides that there shall always be three more regents than there are judicial districts in the State. As there are nine judicial districts at present, there must be twelve regents.

Election.—One regent is chosen on joint ballot of the assembly and the senate during the second week in February each year.

Term.—As one regent is chosen each year and as the number of regents is twelve, the term of a regent is twelve years.

Vacancies—How Filled.—If a vacancy on the Board of Regents occurs in a judicial district which should still have a representative on the Board of Regents and there shall be at the time of such vacancy a district not represented on such board, such vacancy must be filled by the election of a regent residing in such unrepresented district.

If a vacancy in the office of regent occurs for other cause than expiration of term of office, such vacancy shall be filled for the unexpired term by the legislature if it is in session, and if it is not in session such vacancy shall be filled at the session of the legislature immediately following.

Commissioner of Education.—The Commissioner of Education has executive direction over the affairs of the Education Department and is the general advisory and supervisory officer of the entire State educational system. Chapter III of this work is devoted exclusively to his election, powers, duties, etc.

Assistant Commissioners of Education.—There are three assistant commissioners of education, known as the First Assistant, the Second Assistant, and the Third Assistant. These assistant commissioners are respectively in charge of higher education, secondary education and elementary education. Their rank and compensation are equal and they exercise the functions of the Commissioner of Education in their respective fields under his general direction. The work

of these assistants does not relate to the management of the Department but to the broad field outside of the Department.

Chiefs of Divisions.—The Commissioner of Education classifies the administrative and clerical work of the Department into divisions and appoints a chief in charge of each division. Chiefs of divisions are directly responsible to the Commissioner of Education. There are ten of these divisions.

Director of State Library.—This Division has charge of the State Library and the library school. The State Library was established in 1818. It was placed under the trusteeship of the various State officials. In 1844 it was placed under the custody of the Regents of the University, and in 1899 was made a part of the University.

Director of State Museum.—The work of this division embraces investigations in natural science, the economic and industrial applications of such science, and the State Museum. It also embraces the work of the State geologist and paleontologist, the State botanist, State entomologist, mineralogist, zoologist and archeologist.

Administration Division.—This division has general supervision of the internal workings of the Department subject to the orders of the Commissioner of Education. It has general charge of the mails, express matter, documents and printing, and has direct supervision over the employees connected therewith, and such other employees of the Department as are not under the direction of some superior officer. It also has charge of all financial matters pertaining to the department. It looks after appropriations and sees that expenditures are made accordingly. It receives all fees, has charge of all expense accounts, and pays Department salaries. It is responsible for the expenses of normal schools, training classes, institutes, and Indian schools.

Attendance Division.—This division has the general supervision and enforcement of the compulsory education law.

Educational Extension Division.—This division includes all agencies for the promotion of educational advantages for the

assistance of those unable to attend the usual teaching institutions. The means employed in the extension of this work embrace summer schools, vacation schools, evening schools, correspondence schools, lecture courses, study clubs, reading circles, etc. The supervision of the incorporated public libraries of the State is under the direction of this division. It also has charge of the traveling libraries.

Examinations Division.—This division has charge of all examinations conducted by the Education Department.

The propriety of holding regents' examinations was first suggested in 1828. It was not, however, until June, 1864, that regulations were prescribed for holding examinations in preliminary subjects. The first examination was held in June, 1865, and included the subjects of arithmetic, geography, grammar, reading, writing, and spelling. In 1878, examinations were established in 20 advanced academic subjects. The number of subjects has gradually increased until it is now more than 100.

(a) *Law Examinations.*—Examinations for admission to the bar are conducted by a State board of examiners under the direction of the Court of Appeals. The Department has nothing to do with these examinations. Law students, before entering upon the study of law or within one year thereafter, must offer certain preliminary educational qualifications prescribed by the Court of Appeals. The examinations by which these qualifications are determined are under the direction of the Department. It is also authorized to accept the completion of certain higher courses of study as a substitute for these examinations.

(b) *Medical Examinations.*—A certain amount of general education is required of all persons beginning the study of medicine. The University has supervision of the preliminary medical-student examinations, and is also the sole authority to issue licenses for the practice of medicine in the State. The examinations for candidates who desire to practice medicine are under the direction of boards of medical examiners appointed by the Regents. The members of these boards are leading phy-

sicians from various parts of the State. Since 1890 the authority to indorse diplomas or licenses of physicians from other States or countries has been vested in the Department. Previous to this date such authority was possessed by each of the medical colleges of the State.

(c) *Other Professional Examinations.*—This division has charge also of the examinations for candidates who desire licenses to practice dentistry, pharmacy, optometry and veterinary medicine in the State, and also to practice as public expert accountants, or who desire to become registered nurses. All licenses of this kind are issued by the University.

(d) *Teachers' Examinations.*—This division also has charge of all teachers' examinations held in the State. These embrace training school, training class, examinations held by school commissioners, and for life State certificates.

(e) *Other Examinations.*—This division has charge of competitive examinations on which State scholarships in Cornell University are awarded and examinations for admission to training classes.

Inspections Division.—This division has charge of the inspection of all educational institutions in the State, including universities, colleges, technical and professional schools, normal schools, training classes, academic institutions and all public schools. Fifteen inspectors are employed in this work. The prime object of inspection is to stimulate local interest in educational work and thus improve all school accommodations and to raise the standard of educational work.

Law Division.—This division interprets the school law and all other statutes related in any way to the educational work of the State. It has direct charge of all contested appeals and presents them in proper form to the Commissioner of Education for determination. It looks after the form and legality of charters issued by the Board of Regents and also the measures affecting educational interests which are introduced into the State

legislature. It looks after the interests of the Department in any litigation in the courts when the Department is thus involved.

School Libraries Division.—This division has charge of all matters pertaining to public school libraries.

Statistics Division.—This division looks after reports from all educational institutions in the State and all school districts. It tabulates such reports and prepares general statistics on our educational system. It looks after the apportionment of moneys to the public schools of the State and all other educational institutions entitled thereto.

Trade Schools Division.—This division has general charge of all branches of industrial education including trade schools, industrial schools, courses in home making and in special agriculture.

Visual Instruction Division.—This division has general charge of the collection of material for giving instruction by means of pictorial or graphic representation in geography, history, science and kindred subjects and of the distribution and loaning of such material to the communities, schools and other institutions entitled to receive the same.

Division of History.—The office of the State Historian is a part of the Education Department and the duties formerly performed by that officer are now transacted through this Division.

Division of Public Records.—This Division was created by the Legislature in 1911 and confers upon the Division the duty of supervising all public records throughout the State. The Chief of this Division is required to give advice to all village, town, county and city officials who have public records in their charge.

Creation or Abolishment of Divisions.—By concurrent action of the Regents and the Commissioner of Education the Department is divided into divisions. By similar action a new division may be created or an existing division abolished.

Appointment of Officers of Department.—All officers of the department are appointed by the Commissioner of Education subject to the approval of the Regents.

Removals and Suspensions.—The Commissioner of Education with the approval of the Regents may remove at his pleasure any officer or employee of the Department.

When the Regents are not in session he may suspend during his pleasure without salary any officer or employee until the adjournment of the succeeding meeting of the Regents.

State Education Building.—The education building is exclusively set apart under the law for the use of the Education

Department. The Regents and the Commissioner of Education are given power to assign the rooms in such building to the various divisions, officers and work of the Department.

Misdemeanor Falsely Representing Education Department.—It is a misdemeanor for a firm, agent or other person engaged in selling, publishing or manufacturing books, charts, apparatus or any other school supplies to falsely represent to any school officer or teacher that he is an agent or representative of the Education Department, the Regents, the Commissioner of Education or any other school officer.

REVIEW QUESTIONS

Give a brief statement of the supervision exercised by the State over her public schools. What power has the Board of Regents over the Education Department? Who is the chief officer of such Department? How many assistant commissioners are there? State their title, rank and salary. What is the general duty of each? How is work of the Department classified? What is the duty of the director of the State library? When was the library established? When was it placed under the direction of the Regents? When was it made a part of the University? What is the chief work of the State museum? State in general terms the work of the administration division. Attendance division. Educational extension division. Examination division. When were Regents examinations first suggested? First given? State the various purposes for which examinations are held. What is the chief work of the inspection division? Law division? School libraries division? Statistics division? Trade schools division? Visual instruction division? How are divisions created or abolished? How are the officers of the Department appointed? How may an officer be removed? How may an officer be suspended? Under whose direction may rooms of the State education building be assigned? For what use is such building exclusively set aside? What prohibition is there as to falsely representing the Education Department, etc.? What is the penalty?

CHAPTER II

UNIVERSITY OF THE STATE OF NEW YORK

[Article 3]

Organization.—In 1784 the legislature created the corporate body known as the “Regents of the University of the State of New York.” In 1889 the legislature changed the name to “University of the State of New York,” and section 2 of article 9 of the State Constitution of 1894 continues it under this name.

Controlling Body.—The Regents are the controlling or governing body of the University.

Chief Functions.—The chief powers of the University are to charter and inspect educational institutions, confer degrees, determine value of credentials and standard of institutions not in the University, prescribe examinations for its secondary institutions which shall be a suitable standard of graduation therefrom and of admission to college, and to supervise entrance requirements to the learned professions, etc.

Chancellor and Vice-Chancellor.—The chancellor is the presiding officer of the convocation and of all meetings of the Regents. He confers degrees authorized by the Regents, and fixes the time and place of all special meetings of the Regents.

When the chancellor is unable to perform any or all of his duties, they are performed by the vice-chancellor.

Charters Educational Institutions.—The Board of Regents has authority to incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history, or other department of knowledge under such terms as the law provides.

The Regents may also, in their discretion, issue provisional charters, they may change the name of institutions which have

been chartered, and they may, for valid reasons, suspend or revoke any charter which has been granted.

They may also amend the charter of any institution under their supervision.

No institution of higher education can be incorporated by the Regents until such institution has been inspected by some officer of the University and approved by the Regents. The buildings, furniture and equipment must meet the Regents' requirements.

Degree-Confering Institutions.—No individual, association, corporation, or institution can legally confer degrees in this State unless express provision granting this power is given by a charter granted either by the State Legislature or by the Regents. No institution or association can transact business under, or assume in any way, the name of university or college without permission from the Regents.

No institution can be authorized under the University law to confer degrees unless it has at least \$500,000 resources.

Crimes Under University Law.—Counterfeiting any credential issued under the seal of the University or making any unauthorized alteration in such credential is a felony.

Any one personating another by attempting to take an examination in his name, or procuring a person thus falsely to personate another, or attempting in any way to obtain a record of having passed a Regents' examination in violation of the University regulations, is guilty of a misdemeanor. A person who aids or abets another in such violation is likewise guilty of the same crime. A person who has in his possession previous to an examination the question papers to be used in such examination or who sells or offers to sell a Regents' question paper in advance of an examination is guilty of a misdemeanor. A person who fraudulently issues a Regents' credential, or who falsely represents himself as having received a degree or credential, or who appends without proper authorization to his name the letters representing any degree conferred by the University, is also guilty of a misdemeanor.

University Credentials of High School Grade.—These credentials are the qualifying certificates, and the diplomas. Eight years of preacademic preparation or its equivalent is the prerequisite to the preliminary professional and all equivalent certificates. The qualifying certificates are the law student, medical student, dental student, optometry student, veterinary student, pharmacy student, and nurse student and the qualifying certificate for admission to the C. P. A. examination.

Preliminary Certificates.—A preliminary certificate is issued to any person obtaining a standing of at least seventy-five per cent. in Regents' examinations in writing, reading, spelling, elementary English, arithmetic, geography and elementary United States history with civics.

Count.—The term "count" represents one year's work of one hour per week on one subject. A subject pursued five periods per week for one year represents five counts.

Academic Diploma.—This diploma is issued on the completion of a four year high school course, for which all the preliminaries and seventy-two academic counts will be required, of which thirteen must be in English, eight in history and at least ten each in science and mathematics.

The minimum passing mark for this diploma is sixty per cent. for students pursuing regular courses in the schools. For those taking the examinations conducted by the Department in New York, Albany, Syracuse and Buffalo seventy-five per cent. will be required in all subjects.

Academic Diploma for High School Subjects Only.—Issued only when claimed by the principal. The preliminaries are not required. Total number of counts and number in each group the same as for an academic diploma.

The minimum passing mark for this diploma is sixty per cent.

The academic diploma and the academic diploma for high school subjects only will be issued as classical diplomas if they include English thirteen counts, Latin twenty counts, a second

foreign language fifteen counts, history five counts, science five counts, mathematics ten counts, and meet the other requirements.

College Entrance Diploma.—This diploma, which is in substantial agreement with the entrance requirements of all the colleges of the State, is designed to guide students preparing for college and to facilitate their admission. It will be issued only to such students in the schools as pass satisfactory examinations after giving to the study of each subject the amount of time required by the Regents' rules. The grades of this credential will be differentiated in accord with those prescribed for the academic diploma. On its face will be indicated the subjects studied and the ratings obtained in examinations.

REQUIREMENTS FOR A COLLEGE ENTRANCE DIPLOMA

Arts department	Counts
English.	13
Algebra.	7
Plane geometry	5
*Latin.	20
†Second foreign language (2 years)	10
History.	5
Electives.	10
	70
Science department	Counts
English.	13
Algebra.	7
Plane geometry	5
‡First foreign language (2 years)	10
Second foreign language (2) years	10

* Fifteen counts in Latin and five counts in a third foreign language will be accepted instead of twenty counts in Latin.

†Greek, German or French.

‡Latin, German or French.

Science department	Counts
Physics.	5
History.	5
Electives.	15
	<hr/>
	70

Academic Diploma in Commercial Subjects.—This diploma will be issued to candidates who meet the regular requirements for an academic diploma in English, science, mathematics and history and pass Department examinations with a grade of not less than seventy-five per cent. in the following subjects: Advanced bookkeeping and office practice, commercial arithmetic, commercial law, commercial geography, commercial English and correspondence, and business writing.

Music Diploma.—A diploma in music based upon the four year course of study adopted by the Regents will be given for the following counts:

	Counts
Musical instruction (4 years)	20
Musical practice (credit allowed on certificate of principal. Two hours' practice a day for a school year entitles to 5 counts)	15
History (two 3 hour courses)	6
English (4 years)	13
First foreign language (2 years)	10
Electives.	8
	<hr/>
	72

Advanced Diploma.—This diploma provides for all academic courses longer than the regular course covered by the academic diploma above. It is issued only to those who have earned the regular academic diploma and eighteen, thirty-six or fifty-four, etc., counts in addition. On its face are specified the total

counts, its name being determined by the highest multiple of eighteen.

The above diplomas will be issued on the following basis:

1. A diploma based upon a minimum passing mark of sixty per cent. in each subject.
2. A diploma, with credit, to be issued to students who attain a standing of seventy-five per cent or more in subjects aggregating forty academic counts.
3. A diploma, with honor, to be issued to students who attain a standing of ninety per cent. or more in subjects aggregating forty academic counts.

Qualifying Certificates are certificates giving evidence that the holder has such academic education as is required by law for admission to the study of the various professions and for admission to certain professional and technical schools and to the examination for certified public accountants. These certificates are issued only for the purposes specified.

A dental student certificate, a law student certificate, a medical student certificate, a veterinary student certificate or a qualifying certificate for admission to the C. P. A. examination may be secured in any one of the following ways:

1. By furnishing evidence of the completion of the freshman year in a registered course of any college.
2. By furnishing evidence of the satisfactory completion of a four year course in an approved high school (evidence of such work should be submitted on blanks furnished by the Department).*
3. By passing the Regents examinations required for an academic diploma.
4. By passing Regents examinations aggregating sixty counts at not less than seventy-five per cent. in each subject.
5. By evidence of one or more years of high school work

* Applicants for qualifying certificates presenting credentials from other than English-speaking countries must pass a Regents examination in second year English.

(each year of such work being equivalent to fifteen counts) supplemented by Regents examinations at seventy-five per cent. in each subject sufficient to make a total of sixty counts.*

A dental student certificate, a law student certificate or a medical student certificate may also be secured by passing Regents examinations at seventy-five per cent. in each subject in the specified lists of subjects given below.

If this method is taken, no substitutions will be allowed:

Subject	Law	Medicine	Dentistry
English			
3 years	10	10	10
Mathematics			
2 years (algebra and geometry).....	10	10	10
Latin			
2 years (grammar, composition and Caesar).....	10	10	10
Science			
1 year (physics).....	5	5	5
1 year (chemistry).....	0	5	5
History			
1 year (American history, civics).....	5	5	0
1 year (history of Great Britain and Ireland, economics)	5	0	0
Other subjects			
1 year (drawing and manual training)..	0	0	5
	<hr/>	<hr/>	<hr/>
Total.	45	45	45

Law students, who filed the certificate of clerkship with the clerk of the Court of Appeals or who began the study of law

* Applicants for qualifying certificates presenting credentials from other than English-speaking countries must pass a Regents examination in second year English.

in a registered law school prior to July 1, 1907, may obtain the law student certificate by passing Regents examinations at seventy-five per cent. in any subjects aggregating forty-five counts, or by passing Regents examinations at seventy-five per cent. in the following set subjects:

First year English
Latin first year
Elementary algebra
Plane geometry
American history with civics
History of Great Britain and Ireland (3 hour course)
Economics
Arithmetic

Law students, who filed the certificate of clerkship or who began the study of law in a registered law school subsequent to July 1, 1907, and prior to June 1, 1908, may obtain the law student certificate by passing Regents' examinations at seventy-five per cent. in any subjects aggregating sixty counts, or in the set subjects mentioned in the preceding paragraph except that second year English must be substituted for first year English.

All law students who filed certificates of clerkship or who began the study of law in a registered law school prior to June 1, 1908, must complete the requirements for the law student certificate not later than the end of the first year of the study of law. Subsequent to June 1, 1908, the law student certificate must be earned before beginning the study of law.

A pharmacy student certificate or a nurse student certificate may be secured in one of the following ways:

1. By submitting evidence of the satisfactory completion of one year of approved high school work.
2. By passing at seventy-five per cent. in each subject Regents' examinations aggregating fifteen counts.

REVIEW QUESTIONS

When were the Regents of the University of the State of New York organized? What change was made in the organization in 1889? In 1894?

What are the chief powers of the University? What officers has it? What are their duties? What is the authority of the University in relation to institutions which have been chartered? What steps are necessary before an institution may be chartered? What institution may confer degrees? What prohibition is made by law in relation to institutions using the name college or university? Before an institution can be authorized under the University law to confer degrees what must its resources be? What act under the University law is a felony? What acts are misdemeanors?

Name the credentials issued by the University. What is a pass card? What is meant by the term *count*? What is a preliminary certificate? An academic diploma? What must candidates do to obtain a medical-student, dental student, or veterinary-student certificate? A law-student certificate?

CHAPTER III

COMMISSIONER OF EDUCATION

[Article 4]

Historical Sketch.—The first State supervisory school officer in this State was known as “Superintendent of Common Schools.” The office was created by the act of June 19, 1812, entitled “An Act for the Establishment of Common Schools.” This act provided for his selection by the “Council of Appointment.” This was the first authorization of a State supervisory school officer by any State in this country.

This office was abolished April 3, 1821, and its duties were transferred by the same act to the Secretary of State, who served as superintendent of common schools *ex-officio* until April 8, 1854, when the first State Superintendent of Public Instruction assumed the duties of his office. The act establishing this office was passed March 30, 1854, and is chapter 97 of the Laws of that year. The office was continued until April 1, 1904, when the Unification Act of that year went into effect. Under the provisions of that act the office of Commissioner of Education was created, and the first Commissioner assumed the duties of his office April 1, 1904. It will thus be observed that the administration of public-school work has been in the hands of four State officials, as follows: From January 14, 1813 to April 3, 1821, the superintendent of common schools; from April 3, 1821, to April 8, 1854, the Secretary of State, who was *ex-officio* superintendent of common schools; from April 8, 1854 to April 1, 1904, the State Superintendent of Public Instruction; and since April 1, 1904, the Commissioner of Education.

Mode of Election.—Under the act of 1904, the first Commis-

sioner of Education was elected by joint ballot of the senate and assembly. The provisions of that act have now been incorporated in the Education Law and under this law any vacancy in the office of Commissioner of Education must be filled by appointment by the Board of Regents.

Term of Office.—The term of office of the first Commissioner of Education was six years. Since the expiration of the first six years, or since April 1, 1910, the term of office of the Commissioner of Education has not been a fixed period, but such commissioner now serves during the pleasure of the Board of Regents.

Eligibility.—The public officers' law of this State provides that all State officers shall be at least twenty-one years of age, a citizen of the United States, and a resident of the State. The Education law modifies the public officers' law by providing that such Commissioner of Education may or may not be a resident of the State.

Removal.—The Commissioner of Education may be removed at any time by the Board of Regents for cause.

Salary.—The salary of the Commissioner of Education is \$10,000 per year. It was fixed at this amount by the appropriation bill of 1910.

Powers and Duties.—The powers and duties of the Commissioner of Education are so numerous that it is not practicable to consider them, except in a general way. For the specific duties of the commissioner in relation to any branch of work the chapter on such work should be consulted. The duties of the commissioner are executive and judicial. His more important powers and duties are as follows:

Chief Executive Officer.—He is the chief executive officer of the State system of education and is required to enforce all the general and special laws relating to the educational system of the State and to execute all educational policies determined upon by the Board of Regents.

General Supervision.—He has general supervision over all the public schools, normal schools, industrial education, teachers' institutes, and teachers' training classes in the State.

Indian Education.—He is charged with the duty of providing for the education of the Indian children in the State, and is directed to apportion an equitable amount of public money to Indian schools.

Deaf and Dumb and Blind Institutions.—He also has supervision over all institutions in the State for the instruction of the deaf and dumb and blind, and is required to report annually to the State legislature in relation thereto. He also appoints State pupils qualified under the law to all these institutions excepting the Institution for the Blind in Batavia.

Trustee, etc.—He is *ex-officio* a trustee of Cornell University, and upon the results of competitive examinations appoints annually 150 State scholars to that institution, who are entitled to free tuition.

Visual Instruction.—He is authorized to collect material and make all necessary arrangements and contracts to provide instruction by means of pictorial or graphic representation in geography, history, science or kindred subjects. This instruction may be given in the schools, institutions and organizations under the supervision of the Regents. This material may also be loaned to artisans, mechanics and other citizens of the several communities of the State.

Inspection of Schools.—He shall cause all schools and institutions under the statutes relating to education to be examined and inspected and to advise and guide all school officers in relation to their duties and the management of such institutions. A staff of inspectors is employed for this purpose.

Annual Reports.—He is to prepare an annual report which must be submitted over the signatures of the chancellor of the University and the Commissioner of Education to the State legislature showing the condition of the common schools in the State and of all other schools and institutions under their super-

vision and subject to their visitation, and to include in such report those recommendations upon school work, which in their opinion, will promote the advancement of public education.

Supervision of Examination and Certification of Teachers.—He is to prescribe the regulations under which commissioners may issue teachers' certificates; to issue life State certificates to those who have passed the examination required by law; to issue college graduates' certificates to those who meet the requirements for such certificates; to issue such other certificates as the rules require; to endorse under such regulations as he may adopt State certificates and normal-school diplomas issued in other States; and to issue temporary licenses for a period not to exceed one year for any school commissioner district or city or any school district in the State.

Revocation of Certificates.—For sufficient cause, he may revoke any State normal-school diploma, State certificate, college-graduates' certificate, school commissioners' certificate or other certificate issued in this State. He may also revoke his indorsement of any normal-school diploma or State certificate issued in another State.

Prepare List of Normal Graduates.—He is required under law to keep in his office an alphabetical list of all persons who receive normal-school diplomas from the normal schools of the State.

Remove School Officers.—He may, for valid reasons, remove from office any district superintendent, trustee, or other school officer. He may also withhold the salary of a district superintendent and may remit it at his pleasure.

Administer Affidavits.—He may take affidavits and administer oaths in any matter relative to school affairs.

Prepare Registers, Blanks, etc.—He is charged with the duty of preparing such registers, blanks, forms, regulations, etc., as may be needed in transacting all business relating to the public-school system.

Enforcement of Compulsory Education Law.—He is also

charged with the duty of enforcing the provisions of the compulsory education law.

Arbor Day.—He has authority to provide for the proper observance of Arbor Day and Flag Day by the public schools of the State.

Apportionment of School Moneys.—He must apportion as directed by law the State school moneys, and may withhold for just cause part or all of the money due any school district in the State.

Decide Appeals.—He must hear and decide all cases of appeal, when properly brought before him by aggrieved parties, from the action of school officers or school meetings.

Issue Stays, Orders, etc.—He may, upon application in due form, issue an order restraining school officers from performing any of the duties conferred upon them. He may also issue orders directing school officers to perform any of their duties which they may have refused to perform.

School Libraries.—He has general supervision of all the school district libraries in the State, and approves the books which are purchased with public money to be placed in such libraries. He also apportions library money to school districts as directed by law and prescribes regulations under which the books of school libraries may be loaned.

Hold Property in Trust.—He may hold in trust for the benefit of the common schools of the State, or for the schools of any portion of the State, real or personal estate which may be granted in any manner for such purpose. He also has supervision of any trust fund held by trustees for school purposes, and must require them to report regarding its condition and income at such times and in such form as he deems advisable. (Article 19.)

Normal Schools.—He appoints local boards of normal schools, appoints pupils to such schools and determines the requirements for admission. He determines the number of teachers to be

employed in such schools, and approves their appointment and the amount of their salary.

May Appoint Teachers and Open Schools in a City or School District.—When the local authorities of any city or school district neglect or refuse to appoint teachers, janitors, etc, and also neglect or refuse to open the schools of a city or school district the State Commissioner of Education may appoint such teachers, janitors, etc., and open and manage such schools. October 4, 1897, State Superintendent Skinner exercised this power in the city of Watervliet and his action was sustained by the supreme court. (For a full discussion of this power see pages 118-125, vol. I, Annual Report of State Superintendent of Public Instruction for 1897.)

Regulations.—The Commissioner of Education may prescribe any reasonable regulations for the government of the common schools which do not conflict with the laws and policy of the State. (184 N. Y. 421.)

REVIEW QUESTIONS

What was the title of the office of the first State supervisory school officer? When was the office created? How was such officer chosen? When was the office abolished? To whom were the duties of the office then transferred? For what period did such officer act in this capacity? When did the first State Superintendent of Public Instruction assume the duties of his office? When was the office of Commissioner of Education created? How was the first Commissioner chosen? How are vacancies to be filled? What is the term of office? Who are eligible to the office? How may he be removed? What is the salary? What is the two-fold character of the duties of the State Commissioner? What are his general duties? What is his duty in relation to Indian schools? Deaf and dumb and blind institutions? Cornell University? Visual instruction? Inspection of schools, etc.? Annual reports? Examination and licensing of teachers? Revoking certificates? Lists of normal school graduates? Removing school officers? Administering affidavits? Preparing registers, blanks, etc.? Enforcing the compulsory education law? Arbor day? Apportionment of school moneys? Appeals, stays, orders, etc.? School libraries? Holding property in trust? Normal school boards? Under what conditions may State Commissioner appoint teachers, etc.

CHAPTER IV

RURAL SCHOOL SUPERVISION

[Article 14]

Historical Development.—The act of 1795 creating the school system of the State provided that the electors of each town should elect at their annual town meetings, from three to seven commissioners of schools. These officers had supervision of the schools under their jurisdiction, and the distribution of State money appropriated for the support of schools. During the first year after the passage of this act, the supervisor, the town clerk, and the assessors of each town performed the duties of commissioners of schools. These commissioners received no compensation for their services.

In 1812 the number of town commissioners was fixed at three for each town by the State legislature. These officers were to be chosen as before by the people at annual town meetings, and were to receive a salary fixed by the people at the annual town meetings. To them were given the superintendence and management of schools, and they were authorized to divide the towns into school districts. The same act provided that the people should select at the annual town meeting, a number of persons, not to exceed six, who, with the commissioners, should be inspectors, and these inspectors were required to inspect schools and to examine and license teachers. This plan continued until 1841, when the number of town inspectors was fixed at two.

In 1841 the office of Deputy Superintendent of Common Schools was created by the State legislature. Each county was entitled to one deputy, and counties having more than 200 schools were entitled to two deputies. These officers were appointed by boards of supervisors for their respective counties, and the term

of office was two years. Their duties were to visit and inspect the schools under their jurisdiction, and to examine and license the teachers employed therein.

In 1843 the title of these officers was changed to County Superintendent of Common Schools, and increased powers were given them. The right to hear appeals was given to county superintendents in that year, and all appeals were brought before these officers for determination before they could be taken to the State Superintendent of Common Schools. These officials were entitled to two dollars per day for each day necessarily devoted to their work, but they could not receive an amount to exceed five hundred dollars per year. In 1847 the State legislature abolished this office.

In 1843 the offices of town commissioners and town inspectors were abolished by the State legislature, and a new officer known as the Town Superintendent of Common Schools was created. These superintendents were elected by the people at the annual town meetings. Their term of office was one year, and they received a salary of one dollar and twenty-five cents per day for actual time necessarily devoted to their work. To these officers were given the general supervision of schools, and the other duties which had been exercised by town commissioners and inspectors. Upon the abolishment of county superintendents in 1847, the duties of town superintendents were largely increased, and the duties of these officers from that year until 1856 were quite similar to the duties conferred upon school commissioners. Upon the creation of the office of school commissioner in 1856, by chapter 179 of the laws of that year, the office of town superintendent was abolished.

The office of school commissioner was abolished by chapter 607 of the laws of 1910 and the office of district superintendent of schools created. School commissioners are to serve out their terms which expire January 1, 1912, and the terms of district superintendents will then begin. Since the office of school com-

missioner is continued so short a time the provisions of the new law are treated in this chapter.

SUPERVISORY DISTRICTS

Territory Embraced—Number of.—All territory of the State outside of cities and school districts of five thousand population or more which employ a superintendent of schools must be divided into supervisory districts. The law establishes 207 of these districts and apportions them among the counties of the State as follows:

- a. Hamilton, Putnam, Rockland, Schenectady, each one;
- b. Chemung, Fulton, Genesee, Montgomery, Nassau, Schuyler, Seneca, Yates, each two;
- c. Albany, Clinton, Columbia, Cortland, Essex, Greene, Livingston, Niagara, Orange, Orleans, Rensselaer, Schoharie, Suffolk, Sullivan, Tioga, Tompkins, Warren, Wyoming, each three;
- d. Broome, Dutchess, Franklin, Herkimer, Lewis, Madison, Monroe, Ontario, Saratoga, Ulster, Washington, Wayne, Westchester, each four;
- e. Allegany, Cattaraugus, Cayuga, Chenango, Erie, Onondaga, Oswego, each five;
- f. Chautauqua, Delaware, Jefferson, Otsego, each six;
- g. Oneida, Steuben, each seven;
- h. Saint Lawrence, eight districts.

How Organized.—In a county entitled to two or more supervisory districts the school commissioner of each school commissioner district and the supervisor of each town in such county are required to meet at the county seat on the third Tuesday in April, 1911, at 10 o'clock in the forenoon and divide such county into the number of supervisory districts to which it is entitled under the law. In the formation of such districts no town shall be divided. The law directs that the territory of such districts shall be compact and contiguous and formed as

nearly as possible on the basis of an equal division of the territory and the number of school districts.

Call and Organization of Meeting.—The county clerk of each county entitled to two or more supervisory districts is required to give ten days notice in writing to each supervisor and school commissioner of such meeting. The county clerk shall also call the meeting to order at the proper hour. The school commissioners and supervisors present should then elect from their number a chairman and a clerk.

Record of Proceedings.—The clerk of such meeting shall deposit with the county clerk a copy of the proceedings of such meeting. Such copy must be certified by the chairman and the clerk. The county clerk should immediately upon receipt of such proceedings file a certified copy thereof with the Commissioner of Education.

SCHOOL DIRECTORS

Number of.—There shall be two school directors for each town.

When and How Chosen.—Two school directors shall be chosen in each town at the general election in 1910. In 1912, and every fifth year thereafter, and in 1915 and every fifth year thereafter, one school director shall be elected in each town. These directors must be chosen at the *general election* irrespective of the time when town meetings are held. The law provides that such directors shall be nominated and elected in the same manner as town officers chosen at a town meeting held at the time of a general election. The provisions of the election law relating to the nomination and election of town officers chosen at a town meeting held at the time of the general election applies to the election of these directors.

Filing Certificates of Nomination.—Under the election law the certificates of nomination of school directors must be filed in duplicate. One certificate should be filed with the town clerk

and one with the county clerk in all counties except Erie and in that county with the commissioner of election.

Notice of Election.—The notice of the election of school directors must be given by the county clerk and not by the Secretary of State. The Attorney-General has held that school directors are town officers, to be voted for at a general election, and that the county clerk must give the notice of election under authority of section 293 of the Election law.

Ballots.—The Election law makes different provisions for the printing of ballots for town officers elected at a general election in even numbered years and in odd numbered years. The names of school directors must therefore be printed as follows:

1. The names of candidates for school directors who are to be elected in an even numbered year in towns holding their town meetings at the time of the general election should be printed with other town officers to be voted for and upon a separate ballot. In such towns the ballot containing the names of candidates for town officers, including school directors, should be separate from the ballot containing the names of candidates for county and state officers. In the election of directors in 1910 and in 1912, in towns which hold their town meetings at the time of the general election, there must be a separate ballot.

2. In towns which hold their town meetings at a time other than the time of the general election, the names of school directors must also be printed upon a separate ballot.

3. When school directors are to be elected in an odd numbered year, there should be but one ballot and the names of such directors should be printed on the same ballot as the names of candidates for other officers voted for in such town at the general election of that year. This rule applies to the election of school directors in 1915 and 1917.

When separate ballots are required, the town clerk must provide them.

An important question arises as to whether women may vote for a school director. A district superintendent is an officer

chosen at a general election in this State, and the State Constitution provides that the right of suffrage at these elections shall be restricted to *male* citizens. The town law also provides that town officers shall be chosen by the electors of the town. A school director is a town officer and the electors of a town are also restricted to *male* citizens. The Court of Appeals of this State decided that a law to give women the right to vote for the office of school commissioner was unconstitutional.

In 1892 the State legislature enacted a law extending the right of suffrage to women in the election of school commissioners. This act provided that persons entitled to vote for school commissioners should be registered as provided by law, in the same manner as those who were entitled to vote for county officers.

A test case on the constitutionality of this law arose in Onondaga county. Acting under the authority of this law, Mrs. Matilda J. Gage registered in the third election district in the town of Manlius, October 23, 1893. The board of inspectors were requested to remove her name from the registry, but refused to do so. An application was then made to a justice of the Supreme Court for an order to strike her name from the registry on the sole ground that she was not a qualified voter by reason of her sex. The application was granted upon the ground that the law conferring upon women the right to vote for school commissioners was unconstitutional. The inspectors obeyed the order of the court, and the name of Mrs. Gage was stricken from the registry. An appeal was then taken by Mrs. Gage to the General Term of the Fourth Judicial Department, which affirmed the action of the lower court in issuing such order. An appeal was then taken by Mrs. Gage from the action of the General Term to the Court of Appeals, and on January 16, 1894, the Court of Appeals affirmed the action of the lower courts. The opinion of this court was written by Justice Finch and concurred in by all members of the court. The ground on which the court based its decision was that section 1, article 2 of the State Constitution provides that none but *male citizens* are en-

titled to vote for constitutional officers elected by the people; that the office of school commissioner is a constitutional office, and that the law in question conferring upon women the right to vote for school commissioner was a direct contravention of the State Constitution. This decision undoubtedly applies to school directors. (141 N. Y. 112.)

Term of Office.—One director chosen in 1910 shall serve until January 1, 1913, and the other until January 1, 1916. All directors chosen in 1912 and thereafter shall serve for a period of five years from January 1 following their election.

Oath of Office.—All persons elected or appointed to this office are required to take the oath of office prescribed by the State Constitution before entering upon the discharge of the duties of the office and not later than thirty days after their election. This oath may be taken before a justice of the peace or a notary public, and it must be filed in the office of the town clerk of the town.

Vacancies.—This office may be vacated (1) by filing a written resignation with the town clerk; (2) by removing from the town; (3) by death. If a town fails to elect a director a vacancy shall be deemed to exist.

Filling Vacancy.—A vacancy in the office of school director shall be filled by the town board of the town in which such vacancy exists.

Salary.—Each director shall receive two dollars per day and his necessary traveling expenses. The town board is required to audit the same.

DISTRICT SUPERINTENDENT

How Chosen.—A district superintendent is chosen by the school directors of the towns comprising a supervisory district. These directors meet as a board and each director is entitled to one vote. The election shall be by ballot and the person receiving a majority of all votes cast shall be elected.

Meeting of Directors.—1. The first meeting of directors shall be held at 11 o'clock on the third Tuesday in May following their election. It shall be held at a place in the district designated by the county clerk at least ten days previous to the date of such meeting. The county clerk is also required to send each director a ten days' notice of the time and place of such meeting. The directors present at such meeting shall organize by electing from their number a chairman, a clerk and two inspectors of election. Such directors should also designate a place for holding future meetings.

2. The board of school directors shall meet at 11 o'clock in the forenoon on the third Tuesday in August, 1911, and on the third Tuesday in June, every fifth year thereafter to elect a district superintendent of schools. The clerk of the board should give each director ten days' notice in writing of the hour, date and place of meeting.

Proceedings of Meeting.—Within three days after the close of a meeting of a board of directors the clerk of such board shall file with the county clerk a copy of the proceedings of such meeting certified by himself and the chairman.

Certificate of Election.—The county clerk on receiving official notice of the election of a district superintendent of schools should deliver to the person elected a certificate of election attested by his signature with the seal of the county. The county clerk should also transmit to the Commissioner of Education a duplicate of such certificate.

Failure to Elect a District Superintendent.—If a board of directors fail to elect a district superintendent before the first day of January following the date of such meeting, the county judge shall appoint a superintendent who shall serve until the board does elect a superintendent.

Vacancies.—The office of district superintendent of schools shall be vacant upon:

1. The death of an incumbent.
2. His removal from office by the Commissioner of Education.

3. His removal from the county.
4. His filing in the office of the clerk of the county his written resignation.
5. His acceptance of the office of supervisor, town clerk or trustee of a school district.
6. His failure to take and file the oath of office as provided in this article.

Filling Vacancy.—A vacancy in the office of district superintendent shall be filled for the remainder of the unexpired term by the board of school directors. Upon direction of the Commissioner of Education the clerk of the board of school directors must call a meeting of such board to fill such vacancy. All provisions of law in relation to the election of a district superintendent for a full term including notices, filing proceedings, etc., apply to the election of a superintendent to fill a vacancy.

Term of Office.—The term of office of district superintendents elected in 1911 shall begin January 1, 1912 and terminate August 1, 1916. Those elected in 1916, and thereafter shall serve for five years and their terms of office shall begin on the first day of August following their election. The object of this arrangement is to have the term of a district superintendent begin at the beginning of a school year and terminate at the close of a school year.

A district superintendent unless removed holds office until his successor is elected and qualifies.

Qualifications of District Superintendents.—1. To be eligible to election to the office of district superintendent of schools a person must be at least twenty-one years of age, a citizen of the United States and a resident of the State, but he need not be a resident of the supervisory district for which he is elected at the time of his election. Such superintendent must, however, become a resident of the county containing the district for which he has been elected on or before the date on which his term of office begins. Failure to acquire such residence will be deemed

a removal from the county. No person shall be ineligible on account of sex.

2. In addition thereto he must possess or be entitled to receive a certificate authorizing him to teach in any of the public schools of the State without further examination and he shall also pass an examination prescribed by the Commissioner of Education on the supervision of courses of study in agriculture and teaching the same. The holder of a normal school diploma issued by one of the State normal schools of this State, a diploma issued by the New York State Normal College, a college graduate certificate, or a life State certificate satisfies the requirement of the law in relation to a teachers' certificate.

3. A district superintendent who is removed from office shall not be eligible to election to such office in any supervisory district for a period of five years.

Not to be interested in certain business or to accept rewards, et cetera.—A district superintendent of schools shall not:

1. Be directly or indirectly interested otherwise than as author in the sale, publication, or manufacture of school books, maps, charts, or school apparatus or in the sale or manufacture of school furniture or any other school or library supplies.

2. Be directly or indirectly interested in any contract made by the trustees of a school district.

3. Be directly or indirectly interested in any agency or bureau maintained to obtain or aid in obtaining positions for teachers or superintendents.

4. Directly or indirectly receive any emolument, gift, pay, reward or promise of pay or reward for recommending or procuring the sale, use or adoption or aiding in procuring the sale, use or adoption of any book, map, chart, school apparatus or furniture or other supplies for any school or library or for recommending a teacher or aiding a teacher in obtaining an appointment to teach.

Not to engage in other business.—A district superintendent of schools shall devote his whole time to the performance of

the duties of his office and shall not engage in any other occupation or profession. Such time as shall not necessarily be devoted by a district superintendent of schools to the performance of the clerical and administrative work of his office shall be devoted to the visitation and inspection of the schools maintained in his supervisory district. A district superintendent must under this requirement of the law devote his time to the supervision of his schools as exclusively as a superintendent of a city or to the same extent that a teacher devotes her time to her school.

Removal of District Superintendent From Office.—The Commissioner of Education may, by an order under the seal of the Education Department, remove a district superintendent of schools from office whenever he is satisfied that such superintendent:

1. Has been guilty of immoral conduct;
2. Is incompetent to perform any official duty; or
3. Has persistently neglected or wilfully refused to perform any lawful duty imposed upon him.

Must Take Oath of Office.—A district superintendent of schools before entering upon the discharge of the duties of his office, and not later than five days after the date on which his term of office is to commence, shall take the oath of office prescribed by the constitution. Such oath may be taken before a county clerk, a justice of the peace, or a notary public and must be filed in the office of the clerk of the county.

Salary.—1. Each district superintendent shall receive an annual salary from the State of twelve hundred dollars, payable monthly by the Commissioner of Education from moneys appropriated therefor.

2. The supervisors of the towns composing any supervisory district may by adopting a resolution by a majority vote increase the salary to be paid by such district to its district superintendent. Such supervisors must thereupon file with the clerk of the

board of supervisors a certificate showing the amount of such increase. The board of supervisors of each county shall levy such amount annually by tax on the towns composing such supervisory district within the county.

Expenses.—The Commissioner of Education shall quarterly audit and allow the actual sworn expense incurred by each district superintendent of schools in the performance of his official duties, but the amount of such expense allowed shall not exceed in any year three hundred dollars. Such expenses shall be paid by the Commissioner of Education from moneys appropriated therefor.

Salary May be Withheld.—The Commissioner of Education may, whenever he is satisfied that a district superintendent of schools has persistently neglected to perform an official duty, withhold payment of the whole or any part of such superintendent's salary as it shall become due and he may also withhold any sum to which such superintendent shall be entitled for expenses and the amount thus withheld shall be forfeited; but said commissioner may in his discretion remit such forfeiture in whole or in part.

Performing Duties of Another District Superintendent.—A district superintendent, when requested in writing by a superintendent of an adjoining district, *may* perform any of the official duties of the superintendent of such adjoining district. Upon an order from the Commissioner of Education, he *must* perform such duties.

Powers and Duties.—A district superintendent is the supervisory school officer for his district. (For the specific duties of a superintendent in relation to any branch of school work, consult the chapter on such subject.) The more important powers and duties of this officer are as follows:

Supervision.—One of the most important duties of a superintendent is that of supervision. He is required by law to visit and examine all the schools and school districts in his jurisdiction. It is his duty to advise teachers in relation to their

methods of teaching and the management and discipline of their schools. He is charged with recommending to teachers and trustees courses of study and such changes in the general management of schools as will best promote educational interests. He should see that the grounds and outbuildings are in proper condition, and that the school is equipped as required by law to perform the best work possible.

Establish District Boundaries.—When the records of school districts are defective and not properly filed in the offices of town clerks, or when the boundaries of school districts are indefinite or in dispute, it is the duty of the district superintendent having jurisdiction, to establish such boundaries and to see that proper records thereof are filed in the town clerk's office. In order to do this, a superintendent may employ surveyors to establish lines, prepare maps, etc, and any expense necessary for this purpose is a charge upon the district or districts affected.

May Order Repairs.—When, in the opinion of a district superintendent, it is necessary for the health or comfort of pupils to make repairs or alterations on a school-house or outbuildings, he may direct the trustees of the district to make such repairs or alterations at an expense not to exceed \$200. The district, however, may vote an additional amount.

May Order Furniture Supplied.—When, in the opinion of a superintendent, the furniture in a schoolroom is unfit for use and not worth repairing, or when the supply is insufficient, he may direct the trustees of such district to provide new furniture at an expense not to exceed \$100.

Order Nuisance Abated.—A superintendent may also direct the trustees of any school district to abate any nuisance in or upon the premises of their district.

May Condemn School Building.—A superintendent has the authority, when in his opinion a schoolhouse is unfit for use and not worth repairing, to issue an order to the trustees condemning such school building, and to direct in such order the

amount necessary, in his judgment, to erect a building suitable for the needs of the district. Previous to 1897 a school commissioner could not exceed \$800 in his estimate of the amount necessary for the erection of a building. The legislature of that year amended the law by removing this limit and leaving the amount to the discretion of the commissioner. A district superintendent has the same discretion.

Examine and License Teachers.—It is the duty of district superintendents to conduct examinations for teachers' certificates, under such rules and regulations as shall be prescribed by the Commissioner of Education, and to license those who are found to be qualified under such regulations.

Revocation of Certificates.—A district superintendent may annul any teacher's certificate, normal school diploma, State certificate, or college-graduate's certificate, for immoral conduct on the part of the holder of such certificate. Since the passage of the Consolidated School Law of 1894 a school commissioner has not had authority to revoke a certificate upon any other ground than that of immoral conduct and this restriction applies to a district superintendent.

Administer Oaths, Etc.—A district superintendent may administer oaths or take affidavits in all matters relating to school work, but without charge or fee.

Take Testimony in Appeals.—When directed by the Commissioner of Education, a district superintendent must take and report to him testimony in any appeal case. A superintendent has the authority to issue subpœnas and compel the attendance of witnesses. A failure to obey such subpœna subjects the offender to a fine of \$25.

Reports.—A district superintendent is required by law to obtain reports from the trustees of all school districts within his jurisdiction and to file an abstract of such reports annually with the Commissioner of Education. He is also required to submit reports from time to time to the Commissioner of Education, giving such information relative to the schools in his district

and such suggestions upon the educational work of the State as the Commissioner shall request.

Subject to Regulations of Commissioner of Education.—A district superintendent is subject to such rules and regulations as the Commissioner of Education shall from time to time adopt. Appeals from a district superintendent's acts and decisions may be taken to the Commissioner of Education.

Call School Meetings.—A district superintendent may, in certain cases, call annual and special school meetings, and must call the first school meeting in a new school district. (See chapter on school meetings.)

Rooms for Examinations.—A district superintendent can require the trustees or boards of education of any school district to furnish him with a suitable room or rooms in school buildings for the purpose of holding any examination appointed under the direction of the Commissioner of Education.

Divide Territory into School Districts.—It is the duty of district superintendents to make such division of the territory of their respective districts as they think will serve the best interests of the school system. They have the authority, also, to alter or dissolve school districts as provided by law.

May Appoint Trustee.—A district superintendent may fill a vacancy in the office of trustee by appointment, when such vacancy has existed for one month or more and the school district has failed to fill such vacancy by election at a district meeting.

Recommend Appointment of Normal School Pupils.—He has the power to recommend to the Commissioner of Education for appointment as pupils in the State normal schools such persons as are qualified and as, in his judgment, would become successful teachers by receiving a normal school training.

Apportion School Money.—He is required to apportion the State school moneys to the various school districts under his supervision as directed by law.

Assemble Teachers.—To assemble all the teachers of his dis-

trict by towns, or otherwise, on days other than legal holidays when schools are not in session for conference on the course of study, counsel and advise on discipline and school management and for the discussion of school problems for the promotion of the educational interests of the districts.

Meetings of School Officers.—To hold meetings of trustees and other school officers to advise and counsel them in relation to their duties and particularly in relation to the repair, construction, heating, ventilating and lighting of schoolhouses and improving and adorning the school grounds. To advise trustees in relation to the employment of teachers, the adoption of textbooks and the purchase of library books, school apparatus, furniture and supplies.

Inspect Training Classes.—To inspect the work done in a training class maintained in his district and to report to the Commissioner of Education on the efficiency of the instruction given and observation and practice work of the members of such class.

REVIEW QUESTIONS

What provision did the act of 1795 contain relative to the election of commissioners? What were the duties of these officers? Who performed the duties of these officers during the first year after the passage of this act? What compensation did commissioners receive? What change did the act of 1812 make in relation to the number of these commissioners? What compensation was provided? How fixed? What new office did this act of 1812 create? What was the duty of these inspectors? What change was made in the number of inspectors in 1841? When was the office of deputy superintendent of common schools created? How many deputies did each county have? How were they appointed? What were their duties? What change was made in the title of this office in 1843? What provision was made by the act of 1843 in relation to appeals? What compensation was paid these officers? When was this office abolished.

When was the offices of commissioners and inspectors abolished? What new offices were created in this year? How were these officials chosen? For what period? What salary was paid them? What were their duties? Describe their duties between 1847 and 1856? When were these offices abolished? Why? Have women a legal right to vote for school directors? Why not? Give history of law of 1892 and a test case which

arose under such law? What is the term of office of school directors? How may the office be vacated? How may such vacancy be filled? What salary does a director receive? What territory is divided into supervisory districts? How many districts are authorized? How are they distributed? How organized? When? How is meeting called for such purpose? What disposition is made of the proceedings of such meetings? How many school directors in each town? How chosen? When? How nominated? How are nomination certificates filed? Who gives notices of election? State the two cases when the ballot containing the names of school directors must be a separate ballot from that containing names of candidates for state and county officers. When printed on same ballot?

How is a district superintendent chosen? How many votes is each director entitled to? When is the first meeting of such directors? Who calls such meeting? How is a board organized? When does such board meet to elect a district superintendent? What notice of the meeting is required? What becomes of the proceedings of such meetings? Who issues a certificate of election? If a board fails to elect a superintendent, how is such officer chosen? Mention six ways in which the office of district superintendent may be vacated? How is a vacancy in such office filled? What is the term of the first superintendents chosen? What the term thereafter? What is the object of this arrangement? What qualifications are specified for this office? How does removal from such office affect the qualifications of the officer removed?

What prohibitions does the law prescribe as to the business interests of a district superintendent? What is the requirement of the law in relation to the work a superintendent may engage in? Who may remove a district superintendent? State three grounds for removal. When must a superintendent take the oath of office? Who may administer it? What salary is paid a superintendent? Why pays this salary? How may the salary be increased? What provision is made to meet the expenses of a district superintendent? Who may withhold a superintendent's salary? For what reasons?

Who may remove a superintendent from office? Upon what ground? When *may* a superintendent perform official duties for the superintendent of an adjoining district? When *must* a superintendent perform such duties? What are the duties of a superintendent in relation to supervision? In establishing boundaries? Whom may he employ for this purpose? To whom is such expense chargeable? When may a superintendent order repairs on building? To what amount? When may he order furniture purchased? To what amount? When may he order nuisances abated? When may he condemn a school-house? What amount may he direct to be expended to erect a building in the place of the one condemned? What change was made by the legislature of 1897 in

relation to the amount a commissioner could direct to be expended? What discretion has a superintendent?

What is his duty in relation to examination and licensing of teachers? What certificates may a superintendent revoke? Upon what ground? May he revoke a certificate upon any other ground? What oaths or affidavits may he administer? Is he entitled to fees for such service? When may he take testimony in appeal cases before the State department? What special authority has he in such cases? What reports is he required to obtain? What reports must he make? To what regulations is he subject? To whom may appeals from his acts and decisions be taken? What school meetings may he sometimes call? What accommodations can he require for examinations? What power has he to divide the territory of his district? When may he appoint a trustee? What are his duties in relation to normal school pupils? State moneys? When may he assemble the teachers of his district? The school officers? What is his duty in relation to training classes?

CHAPTER V

DUTIES OF SUPERVISORS, TOWN CLERKS, COUNTY TREASURERS, DISTRICT ATTORNEYS, AND COUNTY JUDGES, IN RELATION TO SCHOOL MATTERS.

SUPERVISORS

[Article 13]

Trustees of Gospel and School Lands.—Supervisors are made the trustees of gospel and school lands.

Annual Return of School Money.—Each supervisor must make a return in writing on the first Tuesday of February in each year to the county treasurer, showing the amount of money in his hands for teachers' salaries and the districts to which such money belongs. After such date he should not pay out any of such money until he receives the next certificate of apportionment from the school commissioner.

Disbursement of School Moneys.—It is the duty of supervisors to pay upon the order of the trustees of a district, or a majority of them, any money in his hands belonging to such district and applicable to the payment of teachers' salaries, or for tuition and transportation of pupils. The order upon the supervisor must show that the person to whom such money is payable was a duly qualified teacher, and must also show the dates between which such teacher was employed. If such funds are to be used for the payment of tuition and transportation of pupils the order should set forth that fact.

Payment to Collector or Treasurer.—Whenever the collector or treasurer of a district shall present to a supervisor a copy of the bond which such collector or treasurer has executed, certified by the trustees, the supervisor shall pay to such collector or treasurer all the moneys in his hands due such district that may be applied upon the payment of the salaries of teachers.

Payment of Moneys Due to Union Free School Districts.—A supervisor, upon the order of a board of education of a union free school district, should pay to the treasurer of such district all moneys due it for salaries of teachers.

Accounts of Receipts and Disbursements.—A supervisor should keep a correct account of all moneys received and disbursed by him, and should make a report thereof, with proper vouchers, to the town board at its annual meeting.

Record of Receipts and Disbursements.—A supervisor is authorized by law to purchase, at the expense of the town, a blank-book in which he shall make a record of school moneys received or paid out, stating from whom and for what purposes they were received, and to whom and for what purposes they were paid. This record should be delivered to his successor in office.

Filing Statement of Accounts.—Within fifteen days after the term of office of a supervisor expires he should make a correct statement of the school moneys received and disbursed by him, and should file such statement or report in the town clerk's office, and should notify his successor in office that he has made and filed such report.

To Obtain Funds from Predecessors.—When a supervisor has given the bond required by law to the county treasurer, he should take a certificate or statement from the county treasurer showing that such bond has been given. He should also obtain from the town clerk a copy of his predecessor's report. He should then present to his predecessor in office such copy and the certificate of the county treasurer showing that he has executed the required bond, and should demand all school moneys in the hands of such predecessor in office, which money should be paid upon such demand.

Recovery of Penalties and Forfeiture.—It is the duty of the supervisor, when such duty is not imposed upon other officers by provisions of law, to sue for and recover all penalties and forfeitures provided for by the education law. After

deducting his expenses he should report the balance to the district superintendent.

Formation and Alteration of School Districts.—When requested to do so, a supervisor may act as a member of the local board to consider the wisdom of forming new school districts or changing the boundaries of districts already formed. He cannot act in this capacity unless properly requested, and cannot be compelled to act when requested. In such matters he may act at his own discretion.

For this service supervisors are entitled to \$1.50 per day, which is a charge upon their respective towns.

Fix Valuation of Property.—The supervisors of the towns in which a school district is located shall, when properly requested to do so, determine whether the assessments made upon certain property in such towns are equitable when compared with each other. If in any case they find that the assessments are not equitable they may determine the relative proportion of taxes that ought to be assessed, and if they are unable to agree upon this, they may call a supervisor from an adjoining town, and a majority shall have power to determine such proportion. For this service supervisors are entitled to three dollars per day, which shall be a charge upon their respective towns. (See chapter on "Taxes.")

Fees for Paying Out School Money.—The Legislature of 1904 amended the town law by providing certain fees to be paid a supervisor for services and including the paying out of school moneys. A supervisor is entitled to a fee of one per-centum on all school moneys paid out in accordance with the provisions of the education law. He is not entitled to such fee on any money paid his successor in office.

TOWN CLERKS

[Article 12]

Preserve Records.—It is the duty of a town clerk to preserve carefully all books, papers, and records deposited or filed in his

office and relating to the schools of the town of which he is clerk. Any loss or injury to such documents should be reported immediately to the supervisor of the town.

Record of Apportionment.—Each supervisor deposits with the town clerk the certificate of apportionment for his town, which certificate he should record in a book provided for that purpose. He should also immediately notify trustees that the supervisor has filed such certificate.

Obtain Reports of Trustees.—It is the duty of the town clerk to see that all trustees within his town file in his office an annual report as required by law. Such reports are to be delivered by the town clerk to the district superintendent upon his demand.

Report List of Officers to District Superintendent.—It is also the duty of a town clerk to report to the district superintendent a list of officers and their post-office addresses for each school district in his town as such lists are provided him by school district clerks.

Distribution of Documents.—It is the duty of the town clerk to distribute to the trustees of the school districts in his town all books, blanks, or circulars forwarded to him by the Commissioner of Education or the district superintendent for such distribution. The documents which a town clerk is usually requested to deliver are the annual reports of the Commissioner of Education, the school registers, blank reports for trustees, and Arbor Day programmes. He should also deliver any other document placed in his hands by the district superintendent for that purpose.

Record of Annual Accounts.—He should record the annual account of receipts and disbursements of school moneys made to him by the supervisor and should also record the action taken by the town auditors on such account and on the vouchers accompanying it. When the Commissioner of Education requires it, he should furnish him a copy of such account.

Final Accounts.—A town clerk should record in the same book in which he records the annual accounting of a super-

visor, the final accounting of school moneys by the supervisor, and he should deliver a copy of such final accounting to the supervisor's successor.

Filing Treasurer's Certificate.—A town clerk should receive and record, from an outgoing supervisor, the certificate of the county treasurer showing that the bond of such supervisor's successor has been executed and approved.

Records of Districts.—He should receive, file, and record all descriptions of school districts and their alterations and all other papers and proceedings relating to school matters which are delivered to him by the district superintendent.

Assist in Formation of Districts.—A town clerk may become a member of a local board to pass upon an order issued by a district superintendent to change the boundaries of a school district or to form a new district. He may act in this capacity when requested to do so by the trustees of a district in his town to be affected by an order of the superintendent, but not otherwise. He may act at his pleasure in regard to attending the meeting of a local board for this purpose, but he cannot be compelled to attend. The law leaves his attendance optional. For service in this capacity a town clerk is entitled to \$1.50 per day, which is a charge upon his town.

Preserve Records of Dissolved Districts.—A town clerk should receive and preserve all books, papers, and records of a dissolved school district that are deposited in his office as the law directs.

File Bond of Collector.—A town clerk should receive and file any bond given by a collector of any school district in his town, and enter memorandum of the same in proper book. He is entitled to a fee of twenty-five cents for every such bond filed. (Sec. 252.)

Payment and Expenses.—For any service performed by a town clerk in discharging the duties above mentioned, for which no fee is provided by law, he is entitled to the same compensation

as he would receive for performing similar services for the town, and it should be audited by the town board as a charge upon the town. All disbursements in postage, express charges, etc., are a charge upon the town also.

COUNTY TREASURER

Annual Report to Commissioner of Education.—On the first of October of each year, a county treasurer should report to the Commissioner of Education the amount of money received by him from the academic and library funds, the amount paid to each city, school district and academy and the amount in his hands, if any, unclaimed by any such city, district or academy.

Require Bonds of Supervisor.—As soon as the county treasurer receives the district superintendent's certificate of apportionment, he should require the supervisor of each town in his county to execute a bond with two or more sureties in double the amount of school money to be respectively paid to each of such supervisors. Whenever a vacancy occurs in the office of supervisor and such vacancy is supplied, the person chosen to fill such vacancy should be required by the county treasurer to give a bond in like manner as supervisors regularly elected, in double the amount of school moneys in the hands of the former supervisor.

Should Sue Bond.—If the condition of the bond of any supervisor should be broken, the county treasurer should sue the bond in behalf of the town and pay the money recovered to the successor of the defaulting supervisor.

Payment of School Moneys.—After a supervisor has given a bond approved by the county treasurer, such treasurer should pay such supervisor the amount of school money due his town as shown by the superintendents' certificate of apportionment.

Payment of Unpaid Taxes.—Whenever a collector is unable to collect the school-district tax upon any real estate and the matter is properly presented to the county treasurer, it is his duty

to pay such tax from the contingent fund and to report the facts to the board of supervisors of the county. (See chapter 15.)

DISTRICT ATTORNEY

Fines from Prosecutions.—The district attorney should prosecute all persons guilty of misdemeanors in relation to school affairs, as required by law, and should report annually to the board of supervisors all fines collected as the result of such prosecution, and all such money received by him should be immediately paid to the county treasurer. (Sec. 851.)

Adjust Costs.—When the amount claimed by district officers for defending actions and proceedings in behalf of a district is disputed by such district and the county judge is debarred from acting, such claim, when presented in due form, must be adjusted by the district attorney.

COUNTY JUDGE

Appoint District Superintendent of Schools.—When a board of school directors fail to elect a district superintendent of schools and a vacancy exists in such office the county judge appoints a superintendent. (Sec. 383.)

Adjust Costs.—When the officers of a school district have brought or defended an action or proceeding in behalf of such district *by instruction*, and the amount claimed by such officers for costs and expenses is in dispute, and when such officers have brought or defended an action or proceeding in behalf of a district *without instruction*, and the district meeting refuses to allow the claim presented by such officers for costs and expenses and the matter is properly presented to the county judge, he should give such officers and district a hearing, examine into the facts of the case, and decide what amount should be allowed such officers, if any. The amount allowed by a county judge cannot exceed thirty dollars. A county judge cannot adjust a claim for costs and expenses incurred in bringing or defending

appeals before the Commissioner of Education, but only in an "action or proceeding," in court. (Sec. 860; 31 Misc. 590.)

REVIEW QUESTIONS

Of what school property are supervisors trustees? What annual return of school moneys must supervisors make? When and to whom is such return made? When may supervisors pay out such moneys after a return has been made? Upon whose order should a supervisor pay the money in his hands for the payment of teachers' wages? What two facts should such order show? When should a supervisor pay to a collector or treasurer of a district the money due their district for teachers' wages? What disposition should a supervisor make of the money in his hands, for teachers' wages and library purposes, belonging to union free school districts? To whom should the supervisor make a report of the school moneys received and disbursed by him? What record of school moneys should a supervisor keep? What should he do with this record?

What statement should a supervisor file in the town clerk's office? When? To whom should he send notice that such report has been filed? State what is necessary to qualify a supervisor to obtain funds from his predecessor in office. What is the duty of a supervisor relative to penalties and forfeiture under the consolidated school law? In what manner may a supervisor assist in the formation or alteration of school district boundaries? Has he authority to act if not requested to do so? Can he be compelled to act in such capacity? To what compensation are supervisors entitled for such service? When may supervisors determine upon the equitable assessment of property? When may the supervisor of an adjoining town assist in such matters? What compensation does he receive for this service?

What is the general duty of a town clerk relative to preserving school district records? What record of a supervisor's certificate of apportionment should a town clerk make? What officers' reports must he obtain? What must he do with such reports? What report must he make to the district superintendent? What is his duty in relation to distributing documents? What is his duty in relation to records of annual accounts? Final accounts? Treasurers' certificate? Records of boundaries of districts? When may he assist in forming a new school district or in changing the boundaries of a district? Can he act if not requested? Can he be compelled to act? What compensation does he receive? What is his duty in relation to records of dissolved districts? In filing bonds of treasurer or collector? To what compensation is he entitled? How is such compensation paid?

When must a county treasurer report to a district superintendent? What must such report show? What is his duty in relation to requiring

bonds of supervisors? When should he sue the bondsmen of a supervisor? When should he pay school moneys to supervisors? When should he pay uncollected taxes on real estate to a school district collector?

What is the duty of the district attorney in relation to fines and prosecutions? In adjusting costs?

When may a county judge appoint a district superintendent? When may he adjust costs of district officers defending an action or proceeding for or against the district? What amount may he allow? May he adjust costs incurred in an appeal to the Commissioner of Education in an action or proceeding as defined by the Civil Code?

CHAPTER VI

SCHOOL DISTRICTS.

[Article 5.]

Number of Districts.—For the school year ending July 31, 1910, the number of school districts in the State not including cities, was 10,592. The number differs from year to year as new districts are formed and others abolished.

Origin of District System.—The school act of 1795 provided that the inhabitants of a town might associate together for the purpose of establishing and maintaining schools. Schools were maintained under this plan until 1812, when the law was changed by the school act of that year providing that the town commissioners should divide their respective towns into a suitable and convenient number of districts which should be numbered. The first act providing for union free schools was passed in 1853, and was incorporated into the Consolidated School Act of 1864. The object was to create strong schools by uniting weak ones, and thus bringing more pupils and property to the support of a single school.

Division of Territory.—The law provides that all territory of the State must be divided and included in school districts. If there is territory in a supervisory district not included in some school district, it is the duty of the district superintendent having jurisdiction, to divide such territory and order that it be included in the school districts to which it properly belongs.

Constitutional Provision.—Section 1 of article 9 of the State constitution requires the State legislature to provide for the maintenance and support of a system of free common schools wherein all the children of the State may be educated.

School District.—A school district is a subdivision of a town or city which is under the management and direction of officers who are required to maintain a free public school in and for such district as the law directs.

Classes of Districts.—Under the education law school districts are known as union-free school districts, common-school districts, and joint districts.

Union Free-School Districts.—Union free-school districts are the districts organized as such under the provisions of the education law, or under special acts of the State legislature. These districts have a board of education and are usually organized in the villages and cities of the State.

Common-School Districts.—All school districts in the State which are not organized as union-free school districts are common-school districts. In the place of a board of education a common-school district has a board of trustees.

Joint Districts.—Joint districts are school districts lying in two or more supervisory districts. These districts are either common-school districts or union free-school districts. Joint districts must bear the same number in each town.

Public School.—A public school is a school accessible to all the children of school age residing in a district or city, and supported by public taxation. Common schools and union free schools are public schools.

Camp Schools.—The law now authorizes the maintenance of camp schools to afford educational facilities for the children of alien laborers who may be employed in large construction works, such as reservoirs, public highways, power plants, etc. These are special schools, and the details of the law are not given here, but may be found by consulting Chapter 21, N. Y. Laws of 1913.

School Year.—The school year begins on the first day of August and ends on the thirty-first day of July following.

Who May Attend School.—All persons over five and under twenty-one years of age are entitled to attend the public school of the school district or city in which such persons reside, the full period for which such public school is in session, without payment therefor. Such has been the law since the passage of the free school act in 1867 (Sec. 567.) Children over four years of age are entitled to attend a kindergarten maintained in the district in which such children reside, without charge. (Sec. 311.)

Attendance of Non-resident Pupils.—Non-resident pupils may upon the written consent of the trustees of a district or a majority of such trustees be admitted to the public school of such district. The trustees determine the conditions upon which non-resident pupils are admitted and the amount of tuition which must be paid. Whenever the parents or guardians of non-resident pupils are taxed on property owned by them and located in the district in which such non-resident pupils attend a public school, the amount of such tax paid must be deducted from the tuition charged. (Sec. 567.)

Attendance of Indian Pupils.—When a school district contains an Indian reservation on which a school for Indian children is maintained, the Indian children of such reservation are not entitled to the school privileges of the district in which such reservation is located and cannot be legally admitted to the public district school without the consent of the Commissioner of Education. (Sec. 943.)

Description of Districts.—There should be on file in the town clerk's office, a complete description in metes and bounds of each school district of his town. The districts of a town should also be numbered consecutively. In a town in which twelve school districts are located, such districts should be numbered from one to twelve, inclusive. If any of the districts of such town should be abolished, the districts should be renumbered by the district superintendent so as to make the numbers consecutive. For example, if district No. 8 should be abolished, No. 12 should be changed to 8, and the districts would then be numbered from 1 to 11 inclusive.

Formation and Dissolution of Joint Districts.—When the best interests of public education will thus be conserved, a school district may be formed from the territory of two or more supervisory districts by the joint action of the district superintendents having jurisdiction or a majority of them.

A joint district may also be dissolved. This requires, however, the joint action of the superintendents of the supervisory

districts in which such joint district is located. The proceedings are the same as those given under "Alteration of School Districts" in this chapter, except that all orders must be signed jointly by the superintendents, or a majority of them.

Alteration of Joint District by Special Meeting.—When a majority of the superintendents of the supervisory districts in which a joint district is located fail to attend a joint meeting of such superintendents regularly called for the purpose of altering or dissolving such joint district, the superintendent or superintendents attending such meeting, or any one of them, may call a special meeting of such district to determine whether it shall be dissolved or altered. The decision of the meeting on such question is as valid as though made by the superintendents. This proceeding is operative in cases only where a joint district lies in three or more supervisory districts.

Dissolution of Districts.—A district superintendent has authority to dissolve any school district under his jurisdiction for valid reasons except a union free school district whose boundaries are coterminous with the boundaries of an incorporated village or city. His action in such cases is subject to appeal to the Commissioner of Education. The territory of such district or districts, if more than one is dissolved, must be annexed to adjoining districts or must be created into a new district. This action may be taken without the consent of the trustees of the districts affected. It must be understood, however, that this action can be taken only when a district *is dissolved and its territory is annexed to another district or districts or used to form a new district.*

Call of Meeting to Form Union Free-School District.—The trustees of any school district should issue a call for a special meeting of the district, to determine upon organizing a union free-school district, when requested to do so by fifteen persons who are qualified voters in such district. This request should be a written statement asking for such meeting, and addressed to the trustees.

Meeting of Two or More Districts.—When it is desired to unite two or more districts to form a union free-school district, fifteen qualified voters of each district must sign a request for a meeting; and when the trustees receive such request, they should issue a call for a joint meeting at some convenient place within such districts.

Notice of Meeting.—Within ten days after the trustees have received such request, they should give notice of a meeting to be held at some suitable place in the district. The notice should also state on what day and hour the meeting will be held. The date chosen must be not less than twenty nor more than thirty days from the date on which the notice is given. When the trustees refuse or fail to give notice of the meeting the Commissioner of Education may direct any resident of the district to give such notice.

Method of Giving Notice.—In a district whose boundaries correspond in whole or in part to those of an incorporated village in which there is published a daily or weekly newspaper, the notice of such meeting may be given by posting copies of such notice in at least five conspicuous places in the district twenty days previous to the date of the meeting, and by publishing such notice once a week for three successive weeks in all papers published in such district. Personal service of notice of meeting is not required when notice is published in a newspaper.

In any other district notice shall be given by posting copies in five conspicuous places in the district and by delivering a copy of such notice or so much thereof as relates to the time, place and object of the meeting to each qualified voter in the district, at the place of his residence at least twenty days previous to the date of such meeting.

When two or more school districts are involved in these proceedings, notices must be given in each district.

Failure to Notify all Voters.—A failure to notify all voters of this meeting will not render the proceedings illegal unless it can be shown that such failure was willful and fraudulent.

Expenses of Notices.—All reasonable expenses for publishing such notices of meetings in newspapers are a charge upon the union free-school district, when it is organized. If such district is *not* organized, these expenses must be paid by the persons who signed the request for such meeting. No compensation is allowed for personal service of notice.

Procedure of Meeting.—A meeting duly convened for this purpose shall organize by electing a chairman and a secretary. The next proposition to come before the meeting should be a resolution or motion to form a union free-school district. If the number required by law are present, a vote may be taken on this proposition. The meeting may adjourn from time to time by a majority vote, but not for a longer period than ten days. If the meeting should take affirmative action and vote to organize a union free-school district, the next step would be to elect trustees. The election of trustees is treated in the chapter on boards of education.

Number Required at Meeting.—If the meeting consists of one district only, fifteen qualified voters must be present to vote on the proposition to organize a union free-school district; and if two or more districts are involved, there must be at least fifteen qualified voters present from each district, and a majority of those present and voting will decide the question.

Filing of all Papers and Proceedings.—When affirmative action has been taken by a district on this question, copies of the request for such meeting, and of the call for and notice of such meeting, and of the minutes of the meeting, all duly certified by the chairman and secretary, must be filed with the town clerk of the town in which the district is located, with the district superintendent having jurisdiction, and with the Commissioner of Education.

Failure to Organize.—If the resolution to organize a union free-school district should be defeated, no further business can be transacted, except to vote to reconsider the resolution or to

adjourn; nor can a meeting to consider such question be called again within one year.

Annexation of Common-School District to a Union Free-School District.—A district superintendent may dissolve one or more common-school districts on the written consent of the trustees of all the districts concerned and annex the territory to a union free-school district, when such districts adjoin and when the boundaries of such union free-school district do not correspond to the boundaries of an incorporated village or a city.

Alteration of Boundaries of a Union Free-School District by District Superintendent.—A district superintendent has the authority to alter the boundaries of any union free-school district whose limits do not correspond to those of an incorporated village or a city, in the same manner that common-school districts are altered.

Dissolution of Union Free-School District.—When a meeting, regularly convened, organizes a union free-school district, such district cannot be dissolved within one year from the first Tuesday in August following the date on which it was organized.

But any union free-school district which has been established for one year or more may be dissolved by a special meeting of the district with the approval of the district superintendent. A meeting for this purpose should be called by the Board of Education when an application therefor is presented to them, signed by at least fifteen resident taxpayers of the district.

Action of Meeting.—The vote of a district meeting on this question should be taken by recording the ayes and noes; and to receive favorable action, the proposition to change from a union free-school to a common-school district must receive a two-thirds vote of the legal voters present and voting on the question. Whenever the question fails to receive a majority vote, no further meeting for a similar purpose can be held within three years from the date of the meeting at which such vote was taken.

Approval of District Superintendent.—Whenever a district takes favorable action upon the proposition, it is the duty of the Board of Education of such district to present to the district superintendent having jurisdiction, certified copies of the call for and notice of such meeting and of the proceedings of the meeting. If the district superintendent approves the action of the district meeting, he should file a certificate to that effect with the Board of Education. But the change of such district to a common school district can not go into effect until the day preceding the first Tuesday of August next following.

Disapproval of District Superintendent.—If the district superintendent having jurisdiction, should refuse to approve the action of a meeting in voting to change from a union free-school district to a common-school district, no meeting can be held in such district for a like purpose within three years from the date on which the meeting was held at which such vote was taken.

Conditional Approval of District Superintendent.—A district superintendent may make his approval of such proceedings upon the condition that the district which has been greatly benefited by consolidation in the way of buildings, improvements of site, etc., shall pay an equitable sum to each of the other districts into which the district will be divided.

Division of Dissolved District.—The district superintendent having jurisdiction, has the authority to divide the territory of a union free-school district which has been dissolved as described in this chapter into common-school districts, and whenever a union free-school district which was established by the consolidation of two or more districts shall be dissolved, the district superintendent may divide such territory into districts to correspond, so far as practicable, to the districts which had been consolidated.

Transfer of Academies to Former Trustees.—When a district so dissolved shall contain an academy which was converted under the law into the academic department of the union free-school of such district, the Board of Education must transfer

such academy to a majority of the surviving resident former trustees or stockholders, upon their application.

Disposition of Money on Hand.—Whenever a union free-school district shall be thus dissolved and there shall be any money in the hands of the treasurer of such district, such money should be equitably apportioned among the school districts into which the union free-school district has been divided. When the treasurers or collectors of such districts are elected and have qualified, the money should be paid to them.

Annual Meeting of Districts thus Formed.—The annual meeting of the districts thus formed from the territory of a dissolved union free-school district shall be held the first Tuesday in August which occurs after such districts have been formed. The electors of the districts thus formed shall elect district officers at such annual meeting in the manner required by law.

Notification of Commissioner of Education.—Whenever a meeting of a union free-school district has been duly convened and has voted to dissolve such district, and this action of the meeting has been approved by the district superintendent, copies of the call for and the notice of such meeting, and of its proceedings and their approval by the district superintendent, all duly certified by the board of education, should be forwarded to the Commissioner of Education.

Appeal to Commissioner of Education.—Any person feeling aggrieved by the action taken in any of the proceedings in such cases, may bring an appeal to the Commissioner of Education, who has power to decide the matter and his decision is final.

Division of Union Free-School District which Contains Two Incorporated Villages.—Sections 130-134 inclusive of the education law formerly provided for the division of a union free school district within which there shall be territory of two or more incorporated villages. So much trouble occurred under the operation of this law that these sections were repealed by the Legislature of 1911.

Property of Dissolved Districts.—When two or more dissolved districts are thus consolidated into one, the new district succeeds to the right of the property possessed by the districts from which it was formed.

When the territory of a dissolved district is attached to other districts, the supervisor of the town in which the school-house of such dissolved district is located should sell the property of such dissolved district at public auction. He should give at least five days' notice of such sale by posting a notice in three or more public places of the town in which such district is located, one of which must be posted in the district so dissolved. The supervisor should deduct from the receipts of such sale all expenses. He should then use the remainder to pay the debts of the district. If there is a remainder after paying such debts, the supervisor should apportion it among the owners of taxable property in the district in proportion to their respective assessments on the last assessment rolls of the town, and should pay such money accordingly.

Outstanding Moneys of Dissolved Districts.—The supervisor of the town within which the school-house of a dissolved district is situated has authority to receive, sue for, and collect, in his name of office, any money due the district from its former officers or from any other person.

Application of Such Money.—The supervisor should deduct from any moneys thus received all costs and expenses of collection and report the balance to the district superintendent. The district superintendent should apportion such balance equitably among the districts to which the parts of such dissolved district were annexed. The district meeting of each district receiving such money should direct for what purposes it should be used.

Adjustment of Affairs of Dissolved Districts.—After a district has been dissolved it continues to exist in law for the purpose of providing for and paying all its just debts. For this purpose its trustees and other officers continue in office; the district may hold special meetings, elect officers to fill vacancies,

and vote taxes; and the inhabitants of the district and its officers may transact any other business necessary for the adjustment of such debts.

Records of Dissolved Districts.—The district superintendent, or if a joint district, the superintendents, should direct the clerk or other person who may be in possession of all books, papers, and records of the district to deposit such books, papers, and records in the town clerk's office of the town in which the school-house of such dissolved district was located. The superintendent should file a copy of the order served on the district clerk or other person with the town clerk.

A failure on the part of a district clerk or any other person to comply with the order of a superintendent in this matter is punishable by a fine of \$50.

Methods of Alteration.—In altering the boundaries of any school district there are two methods of procedure. One is *with* the consent of the trustees of the districts affected, the other is *without* the consent of such trustees.

It is impossible to change the boundaries of one district without changing the boundaries of at least one other. If territory is taken from one district it must be added to another. There will, therefore, always be at least two districts affected when a question of alteration of boundaries is involved.

Action with Consent of Trustees.—A district superintendent should always, if possible, obtain the consent of the trustees of all districts to be affected, when he decides to alter the boundaries of a district. This consent should be in writing and should state definitely what changes are to be made. A description of the districts as they shall be after the proposed changes are made should be incorporated in the written consent of the trustees. The Commissioner of Education has held that in a district having more than one trustee a majority vote at a meeting regularly called shall be considered the action of such board. The consent of the trustees of all districts having been obtained, the superintendent may issue an order making the alterations, and

must file a copy thereof with the town clerk of the town in which such districts are located, and if such districts are located in two or more towns, a copy must be filed with the town clerk of each of such towns. The order should state definitely what changes are to be made and must recite that the consent of the trustees of each district has been given. These consents should be attached to and form a part of the order of the superintendent. The superintendent should also file a copy of such order with each district clerk of the school districts affected.

The Commissioner of Education has held that a trustee cannot consent to transfer his own land from one school district to another.

Action Without Consent of Trustees.—This procedure is more complicated than the former. When the trustees of *any one* of the districts affected, refuse to consent to the proposed alteration the superintendent must follow out each step provided by statute. He may make the order and file it with the town clerk of the town in which the districts are located. This order is known as the preliminary order, and must recite the refusal of the trustees of any district or districts so refusing, and the superintendent must direct that the order shall not take effect as to the dissenting district or districts until a day named therein, and not within three months from the date of such order.

Within ten days after filing such order the superintendent must give at least one week's notice in writing to the trustees of all the districts affected by such order, that, at a specific time, and at a place in the town in which one of the districts to be affected is located, he will hear the objections which may be offered to the proposed alteration.

This notice must state that an order of alteration has been issued, and a copy of such order must also be inserted in the notice.

Local Board.—Upon the request in writing of the trustees of any district affected, the supervisor and town clerk of the town or towns in which such district wholly or partly lies, may

be associated with the superintendent upon the hearing of objections to his preliminary order. No supervisor or town clerk can act in this capacity who has not been requested to do so. And such supervisor and town clerk must present such request, with proof of service of the same, to the superintendent, at the time and place fixed for such hearing, to establish their jurisdiction to act. The supervisors and town clerks thus requested to act and the superintendent, form the *local board* to hear and determine upon the merits of the objections offered to the proposed changes. If a supervisor or a town clerk should be associated with a local board without being requested by the trustees of the district, any decision of such board determined by the votes of such supervisor or town clerk would be declared void by the Commissioner of Education upon appeal to him in due form.

If a district has more than one trustee, a request for a supervisor or town clerk to act in conjunction with the superintendent must come from a majority of such trustees; such request having been decided upon at a regular meeting.

Town officers are not required by law to attend such meetings. Trustees are authorized to request them to attend; but there is no authority to compel their attendance. If any of these officers who are entitled to act as members of a local board should fail to appear at the hearing, the superintendent and those supervisors and town clerks entitled to become members of the board, who do appear, may proceed with the hearing and render a decision thereon. If all supervisors and town clerks entitled to become members of such board should fail to appear at the hearing, the superintendent may proceed without them and decide on the merits of the objections offered.

But if the superintendent should not attend and if the town officers should attend, they would not have the authority to proceed, and the preliminary order issued by the superintendent would become void. In a case of this kind proceedings could be renewed if desired.

A local board has power to adjourn from time to time, but

such adjournments can not extend the date of the hearing beyond the time designated in the preliminary order when such order shall take effect.

At the hearing before the local board those interested who are opposed to the order of the superintendent may present their evidence and arguments against the wisdom of the proposed changes, and those in favor may also present evidence and arguments in support thereof.

After all evidence and arguments have been presented, the board must decide by vote either to affirm or vacate the order of the superintendent. Each member of the board is entitled to a vote, and a majority decides the action to be taken. If the board decides to vacate the order of the commissioner, the matter is ended and the changes cannot be made. An appeal from such decision may be taken to the Commissioner of Education, who may affirm, modify, or vacate such order. A record of the action of the board must be filed in the town clerk's office.

If the board votes to confirm the order of the superintendent, a final order must be made by the superintendent and members of the board, directing that the alterations be made.

This final order must recite the first order and all the proceedings taken thereafter, including the action of the local board.

Consolidation of School Districts.—The law authorizes the voters of two or more districts to convene in a joint meeting for the purpose of determining whether or not such districts shall be consolidated into one.

The object of this statute is to enable several weak country districts to unite into one strong district so that more pupils, more taxable property, and more public money may be brought to the support of a single school. The theory is that one strong school may be maintained at less expense than three or four separate schools, and that better school facilities may be provided.

The law encourages districts to consolidate by providing that when two or more do determine on consolidation, the enlarged district shall receive in public money from the State, an amount equal to that which would be apportioned to the several districts in the aggregate on the present basis of apportionment.

The law defines a regular method of procedure in such matters, and this procedure must be strictly followed.

Notice of a meeting for this purpose must be given as provided in the law, and copies of such notice, of the proceedings of the meeting, and of the order made by the district superintendent must be filed in the office of the town clerk of the town in which such districts are located.

After the order of formation is duly executed by the district superintendent, such superintendent shall, if the districts consolidated are common school districts, prepare a notice describing the enlarged district, and designating the time and place for holding the district meeting to elect school district officers.

The officers chosen at such special meeting serve until the first Tuesday of May next thereafter, when officers should be elected at the annual meeting pursuant to the provisions of the Education Law.

REVIEW QUESTIONS

What is the number of school districts in the State? What is the law in relation to the division of all territory in the State? What are the three classes of districts? When was the district system first inaugurated? How? What change was made in 1812? When were union free schools authorized? Define each. What is a public school? What are the limits of a school year? Who are entitled to attend a public school? For what period may such persons attend? When was the free-school act passed? What is the law in relation to the apportionment of public money on the attendance of pupils over 18 years of age? Who may attend a kindergarten? How may non-resident pupils be admitted to school? Who determines the conditions upon which they are admitted? What is the law in relation to charging such pupils tuition? What is the law regulating the attendance of Indian pupils upon a public school?

Where should a description of each school district be filed? What should be the character of this description? How should districts be numbered? When may a joint district be dissolved? How? When may the boundaries of a joint district be altered by a special meeting? How is such special meeting called? When may a school district be dissolved by a superintendent without the consent of the trustees of such district?

Who calls the meeting for the organization of a union free school district? When? How should this request be made? How should the request be made when two or more districts are to be united? When such request is properly presented to the trustees what should they do? What

facts should the notice contain? At what time after the notice has been given must the meeting be held? How may the meeting be called when the trustees refuse to give the required notice?

What is the method of giving notice in a district whose boundaries correspond in whole or in part to those of an incorporated village in which there is published a daily or weekly newspaper? When is a personal service of notice not required? What method of giving notice in all other districts must be pursued? How must notice be given when two or more districts are involved? What should all notices state? What is the effect of a failure to notify all voters? How are the expenses of publishing notices, etc., paid? If the district is not formed, how are they paid? Can compensation be allowed for personal service of notice?

How does the meeting organize? What is the next proposition to come before the meeting? When may a vote be taken on this proposition? How may the meeting adjourn? For what period? If affirmative action is taken on the proposition, what is the next step to be taken? When *one* district is involved how many voters must be present in order that a vote may be taken? How many voters must be present when *two or more* districts are involved? What vote determines the question? When affirmative action is taken what papers must be filed? With what officials? If the proposition to organize is defeated, what further business may be transacted? When may another meeting to consider the matter be called?

When may the district superintendent annex the territory of a common-school district to a union free-school district? A district superintendent may alter the boundaries of what union free-school districts? After a union free-school district has been organized what time must elapse before it can be dissolved? How may a union free-school district which has been established for more than one year be dissolved? How is such special meeting called? When should it be called? How should the vote on this question be taken? What vote is necessary in order to change to a common-school district? When a proposition to change from a union free-school district to a common-school district is defeated, what period of time must elapse before another meeting may be called to consider such proposition? What must be done with all papers in the proceedings when a union free-school district votes for a change? What should the superintendent do if he approves the change? When does the dissolution go into effect? If the superintendent fails to approve such action, when may another meeting for the same purpose be held? When may a superintendent make his approval conditional? What is done with the territory of a union free-school district when such district has been dissolved? When a district is thus dissolved and it had contained an academy which was converted into an academic department of such union free-school district, what must the board of education do with such

academy? When a district is thus dissolved and there is any money in the hands of the treasurer of such district, what disposition must be made of such money? To whom should it be paid? When does the annual meeting of the districts formed from such dissolved district occur? What papers relating to such dissolution must be filed with the Commissioner of Education? What appeal may be taken in these matters?

When two or more dissolved districts are consolidated into a new district, what becomes of the property of such dissolved districts? What becomes of the property when such districts are attached to other districts? What notice of such sale must be given? How are the expenses of such sale met? What disposition is made of the remainder of such fund?

How may the outstanding money of a dissolved district be collected? What is done with money thus collected? What is the duty of a district superintendent in relation to such matters? What powers does a dissolved district possess as a district? What disposition should be made of the books, papers, and records of a dissolved district? Who should direct this? What is the penalty for failing to comply with this direction? What are the two methods by which a school district may be altered? If the boundaries of one district are changed, what must follow? In what form should trustees' consent be given? What is done after the consent of the trustees is given? What must be done with the superintendent's order? What facts should the order of the superintendent recite? With whom should copies of such order be filed? Can a trustee consent to transfer his own land from one district to another?

By whom is a preliminary order issued to change the boundaries of a district when the trustees will not consent to such change? Where must such order be filed? What must it show? When must it take effect as to the dissenting districts? What notice must the superintendent give to the trustees dissenting to such changes? What must such notice contain? What officers may be associated with the superintendent at the hearing upon such order? Can these officers act if not requested by the trustees? What must these officers do to establish their jurisdiction to act? What would be the effect if either of these officers should act without being properly requested to do so? Can these officers be required to act in this capacity? If only part of the officers requested to act in this capacity should appear at the hearing, what should be done? If none of such officers requested should appear, could the superintendent legally act in their absence? If the superintendent should fail to appear and the other officers should appear, what could be legally done?

Can this board adjourn? For what period? What should be done at the hearing? What must be done with the records of the proceedings? If affirmative action is taken on the original order, what is the next step? What must the final order contain?

CHAPTER VII

DISTRICT MEETINGS

[Article 7]

I. FIRST MEETING IN NEW DISTRICT

By Whom Appointed.—When the order forming a new school district goes into effect the district superintendent having jurisdiction must appoint a time and place for holding the first district meeting for the purpose of effecting a district organization.

Notice of Meeting.—The district superintendent must prepare a notice which shall state the time and place at which the meeting will be held and the object for which it is called. This notice should be explicit in this respect and state that the meeting is called to elect officers, vote taxes, and transact any other business permitted by law. The notice must also include a description of the boundaries of the district, which must be the same as that contained in the order forming such district and must be given in metes and bounds. This notice should be delivered by the district superintendent to some taxable inhabitant of the district, who is directed to serve such notice upon every qualified voter residing in the district for which the meeting is to be held.

Service of Notice.—It is the duty of the person receiving this notice to notify every qualified voter of the district of such meeting by delivering to him a copy of the notice of such meeting. If any resident of the district is absent from home, a copy of that part of the notice relating to the time, place, and object of the meeting should be left at the place of residence of such person. This notice must be served on the voters of the district

at least six days, previous to the date of the meeting, exclusive of the day of service.

Return of Notice.—The person serving such notice should make a return to the district meeting showing in what manner each inhabitant of the district was notified. This is done by furnishing a list of names of those who were personally notified of the meeting and another list of those for whom the notices were left at their places of abode. These lists should be endorsed upon the back of the notice of such meeting and signed by the person who served the notice. It should then be presented by such person to the district meeting and filed with the records of the district. The object of this return is to show that the meeting was regularly called and to establish its jurisdiction in the event of any dispute arising. If a return is not made, it will be presumed that the meeting was regularly called, unless the preponderance of evidence should show otherwise.

Penalty for Refusing to Serve Notice.—Any taxable inhabitant of such district, when requested in due form to serve the notice of such meeting, who refuses or neglects to do so, forfeits the sum of \$5 for the benefit of the district.

Powers of Such Meeting.—The first meeting of a new district, when regularly called, possesses the powers of an annual meeting and may transact business that might properly come before an annual meeting.

Failure to Hold Meeting.—Whenever the time fixed for the first meeting of a new district shall have passed and such meeting shall not have been held, the superintendent may, in his discretion, appoint another time for such meeting by delivering another notice, as in the first case, to some taxable inhabitant of the district. A superintendent is not required to call a second meeting. He may act as he deems it expedient under the circumstances. Unless in the opinion of the superintendent it is necessary for the consideration of important business before the date of the annual meeting, a second meeting should not be called.

2. SPECIAL MEETINGS

By Whom Called in Common-School District.—The call for all special meetings in a common-school district should be issued by the trustees of the district. When the office of trustee is vacant the district clerk should issue such call, and when the offices of trustee and clerk are both vacant, the district superintendent having jurisdiction may, when it is shown to his satisfaction that conditions demand it, issue a call for a special meeting.

Method of Calling in a Common-School District.—There are two methods by which special meetings may be called in a common-school district. The voters of a district may at any annual meeting adopt a resolution prescribing the method by which notice of special meetings shall be given. Such resolution and such method of calling special meetings provided thereby shall remain in force until modified by some subsequent annual meeting. This method must be such that the notice may reasonably be expected to reach every voter of the district. Publishing notices in a paper published in the district or posting notices for a reasonable time in conspicuous places in the district, has been held to meet the requirements of the law.

When the annual meeting fails to provide a special manner of giving notice of special meetings, the method provided by statute must be pursued. The district clerk, upon the request of the trustee or trustees of the district, must serve notice upon each of the qualified voters of the district at least six days, exclusive of the day of service, before the date of such special meeting. If there should be a vacancy in the office of district clerk, or if the clerk should refuse to act, a trustee of the district or some taxable inhabitant, upon order from the trustees of the district, must serve the notice of special meetings. If the offices of trustee and clerk are both vacant, the district superintendent may direct some inhabitant of the district to serve the notice of special meetings.

Notice of Special Meeting in Union Free-School District.—The notice of all special meetings should be given by the Board of Education and in the same manner that notice of annual meetings is given. The notice of such meetings may be signed by the president and the clerk of the board, but this must be done under the direction of the board. The notice should state explicitly when and where the meeting will be held and the purpose for which it is called.

Service and Return of Notice.—The method of serving notice for special meetings on the inhabitants of a district is the same as that outlined in this chapter for serving notice for the first meeting of a district. The same method of procedure in making a return of service of notice should also be followed.

Penalty for Refusing to Serve Notice.—Any taxable inhabitant of a district who refuses to serve a notice of special meeting when legally requested forfeits the sum of \$5 for the benefit of the district.

Power of District Superintendent to Call Special Meetings.—It will be observed from the preceding paragraphs relating to special meetings that a district superintendent may call and give notice of special district meetings for any school district under his jurisdiction when the offices of clerk and all trustees for such district are vacant.

Failure to Notify all Voters.—If the failure to notify all voters of a district meeting can be shown to be wilful and fraudulent, the proceedings will be declared illegal upon appeal in proper form to the Commissioner of Education. If such omission of notice appears accidental or if the presence of the person failing to receive such notice would not change the result of the action of such meeting, or if such person attended the meeting, the proceedings will be declared legal. All matters of this character in dispute should be presented to the Commissioner of Education in the form of appeals.

Powers of Special Meetings.—The only business which can be considered at a special meeting is that for which the meeting

was called and which was designated in the notice of such meeting.

The only purpose for which a special meeting in a union free-school district whose boundaries are the same as those of a city or an incorporated village are for the authorization of improvements to school property as provided in section 467 and the issuance of bonds therefor, or such other purpose as the charter or special act of a city or village may particularly specify.

3. ANNUAL SCHOOL MEETINGS

Notice in Common-School District.—The district clerk should give at least five days' notice of an annual meeting by posting notices thereof in at least five public places. A failure to give such notice would not invalidate the business transacted at an annual meeting, as the law fixes the date and all persons entitled to vote at such meetings should know when they are to be held, without receiving notice.

Notice in Union Free-School District.—The clerk of a union free-school district who is the clerk of the Board of Education should give notice of the annual meeting by publishing the same in two newspapers in the district, weekly for four weeks immediately preceding the date of the annual meeting. If there are not two newspapers published in the district, then such notice should be printed in one paper. If no newspaper is published in such district, then such notice must be posted in at least twenty conspicuous places for at least twenty days before the time of such meeting.

Date.—1. The annual school meeting of each common-school district must be held on the first Tuesday of May of each year.

2. The date fixed by law for the annual meeting of a union free-school district whose boundaries *do not* correspond to those of an incorporated village or a city, is the first Tuesday of May also.

In a union free-school district whose boundaries *do* coincide with the limits of an incorporated village or a city no annual

meeting is held. The election of officers in such districts occurs at the charter election and the usual business of the district is transacted by the Board of Education.

Hour.—Unless a previous annual meeting has fixed some other hour, the meeting should be held at 7:30 o'clock P. M.

Place.—The annual meeting must be held in the school-house of the district unless otherwise voted by the district. If the district has two school-houses, the meeting should be held in the one generally used for that purpose. The trustees, however, may designate the other school building. A district may vote at an annual meeting or a special meeting called for that purpose, that future meetings shall be held at some other place than the school-house. If the district has no school-house, the meeting must be held at some place designated by the trustees.

Failure to Hold Annual Meeting.—If the date of the annual meeting has passed and such meeting has not been held in a certain district, the trustee or clerk of such district should call a special meeting to transact the business of the annual meeting. If the trustees or clerk of such district should fail to call such special meeting within twenty days after the date fixed by law for holding the annual meeting, the district superintendent having jurisdiction over such district may order any resident of such school district to give notice that such meeting will be held. This notice must be given in the same manner as notices of special meetings.

The district officers should make to such meeting the reports required to be made at annual meetings. A failure to make such reports subjects district officials to the same penalty that is imposed for a failure to report at annual meetings. Officers elected at such meeting are entitled to serve until the date of the next annual meeting or until their successors have been elected and have qualified.

Notice of Adjourned Meeting.—When any meeting of a district has been adjourned for more than one month, the clerk of the district must post notices of the time and place of such

adjourned meeting in at least five of the most public places in such district and at least five days previous to the time appointed for such meeting.

Legislative Body of District.—The electors of a school district, when assembled in a meeting regularly convened, constitute the legislative body of such district and may transact any business relating to the school affairs of such district which is permissible by statute. As special meetings are called to transact special business, the annual meeting of a district is the one in which nearly all the business of a district is transacted. The more important matters coming before an annual meeting as provided by law are as follows:

Powers and Duties of Annual Meetings:

1. To select a presiding officer, to be known as *chairman*, and in the absence of the district clerk to select a clerk *pro tempore*.
2. To elect district officers for the ensuing school year.
3. To determine by majority vote by ayes and noes whether a district officer shall be chosen to be known as *treasurer*.
4. To name the amount of the bond which the collector and the treasurer must give to the district for the faithful performance of the duties of their respective offices.
5. To vote a tax upon the taxable property of the district to purchase, lease, or improve the school-house site or to enlarge the site already owned by the district. Also to vote a tax to hire or purchase rooms or buildings for school purposes and to keep them in repair. To vote a tax to build school-houses and to supply them with necessary furniture, fuel, etc.
6. To vote a tax not to exceed \$25 in any one year for the purchase of school apparatus, such as maps, globes, blackboards, etc., and for the purpose of supplying text-books and other school supplies for the use of the poor scholars of the district.
7. To vote a tax for the establishment, maintenance, sup-

port, and increase of a school library, and to purchase a book-case.

8. To vote a tax to supply a deficiency caused by a failure to collect a former tax, also for the purpose of providing a record book for the district.

9. When district officers have lost or embezzled any of the funds of a district, the annual meeting may vote a tax upon the district to replace such funds.

10. The annual meeting may also vote a tax upon the district to meet the expenses incurred by the district officers in defending suits or appeals in the district's behalf and also in prosecuting suits or appeals in its behalf, when directed.

11. The district may also vote a tax to pay teachers' wages as they become due, and to pay any judgment obtained from a competent court by a teacher for teacher's salaries.

12. An annual meeting may direct the trustees of a district to insure in any insurance company created under the laws of this State, or authorized to do business in the State, the school buildings, furniture, apparatus, etc.

Method of Voting.—All questions involving the expenditure of money or the levying of a tax upon a district must be by ballot, or by a vote of the ayes and noes, which must be properly recorded.

REVIEW QUESTIONS

Who appoints the first meeting in a new district? When? Who prepares the notice? What should the notice show? What is done with such notice? Who serves it? Who designates the person to serve it? Upon whom must such notice be served? How should such notice be served? How should such notice be served upon persons who are absent from home? When must such notice be served? How should a return of service of notice be made? What should be done with such return? Why? What is the penalty for refusing to serve such notice? What powers does such meeting possess? If the time for holding such meeting has passed and the meeting has not been held, what should be done?

Who usually calls special meetings? When may the district clerk? The district superintendent? Commissioner of Education? How many methods of calling special meetings are there? Describe each. What is the method

of service of notice of such meeting? What notice is required in a union free-school district? Of the return of service of such notice? What is the penalty for refusing to serve such notice? What is the effect of a wilful failure to notify all qualified voters of such meetings? What if such failure were accidental? What if the presence of those who were not notified would not change the result of the action of a meeting? How should disputes of this kind be settled? What business can be transacted at a special meeting?

What notice of annual meetings must be given in a common-school district? In a union free-school district? Does a failure to give such notice invalidate a meeting? When does the annual meeting occur? At what hour? At what place? May it be held elsewhere? When? If the annual meeting is not held on the date fixed by law, what should be done? What business should be transacted at the meeting when called? For what period do the officers elected at such meeting serve? What notice must be given of a meeting adjourned for more than one month? What is the legislative body of a school district? What power has an annual meeting in relation to selecting a chairman? A clerk *pro tempore*? District officers? District treasurer? What is the duty of a district meeting in relation to the bond of treasurer or collector? Name the various purposes for which a district meeting may vote a tax? What direction should an annual meeting give trustees in relation to the insurance of property? How must a vote involving expenditure of money be taken?

CHAPTER VIII

VOTERS AT SCHOOL DISTRICT MEETINGS—QUALIFICATIONS, CHALLENGES, ETC.

[See Sections 203, 204 and 205]

Note.—The qualifications of voters in union free-school districts are the same as those of voters in common-school districts. No distinction is made by law between the qualifications of voters in these two classes of districts or in the penalty for illegal voting. Under the provisions of the Education Law, there are four classes of persons entitled to vote at school district meetings in this State. These classes are clearly defined in a circular letter issued by the Education Department, as follows:

WHO ARE VOTERS.—Four classes of persons are entitled to vote at school district meetings. All voters must have the following general qualifications:

General Qualifications

1. A citizen of the United States.
2. Twenty-one years of age at least.
3. A resident within the district for a period of at least thirty days next preceding the meeting at which he or she offers to vote.

Any person who possesses the above general qualifications and any one of the four special qualification is entitled to vote:

Special Qualifications

1. One who owns or hires, or is in the possession under a contract of purchase of real property in such district liable to taxation for school purposes.
2. One who is the parent of a child of school age, provided such child shall have attended the district school in the district in which the meeting is held for a period of at least eight weeks within the school year preceding such school meeting.
3. One who, not being the parent, has permanently residing with him or her a child of school age who shall have attended the district school

for a period of at least eight weeks within the school year preceding such meeting.

4. One who owns any personal property assessed on the last preceding assessment roll of the town exceeding fifty dollars in value, exclusive of such as is exempt from execution.

Women possessing any of the above qualifications are entitled to vote.

Both parents are entitled to vote when they have a child or children who attended school in the district eight weeks during the year preceding such meeting.

But one such person, however, can vote where the right to vote depends upon their having children not their own residing with them, and that person must be the head of the family.

Residence.—A person to become a resident of a school district must actually reside in such district for a period of at least thirty days immediately preceding any annual or special meeting held in such district.

Challenge of Voter.—No person can take part in the transaction of any business of a district meeting who is not a legal voter at such meeting. The right of any person to vote at a school district meeting cannot be questioned or challenged by any person except a duly qualified voter. When a person offering to vote at a district meeting is challenged by a qualified voter, the chairman of such meeting should require the person thus challenged to make the following declaration: "I do declare and affirm that I am and have been for the thirty days last past an actual resident of this school district and that I am qualified to vote at this meeting." Any person who shall make such declaration is entitled to vote upon all propositions which arise at such meeting. A person thus challenged who refuses to make such declaration should not be permitted to vote upon any question before the meeting. Neither the district meeting nor the officers of such meeting have authority to pass upon the qualifications of any voter. Even if the officers of such meeting *know* the declaration made by a person challenged to be false, they cannot refuse to accept his vote. The proper course to pursue is to accept such vote, and proceed against the offender as the law provides.

Penalty for Illegal Voting.—A person who has been challenged at any school district meeting and who willfully makes a false declaration of his or her right to vote at such meeting, is guilty of a misdemeanor which is punishable by fine or imprisonment or both.

A person voting at any school district meeting who has not been challenged and who is not a qualified voter at such meeting, forfeits the sum of ten dollars, which should be sued for by the supervisor of the town for the benefit of the school district.

Under the Penal Law a person not qualified who knowingly votes or offers to vote, or who makes a false declaration when challenged at any school district meeting is guilty of a misdemeanor.

Decisions of Education Department.—The State Superintendents of Public Instruction and the Commissioner of Education have established the following rulings, which govern questions at the present time involving these points of law:

1. An alien is not a legal voter at a school district meeting, although he may reside in the school district, own lands in the district, or have children of school age residing with him who attend school in the district.

2. The proceedings of a school district meeting carried by illegal votes will be set aside on appeal to the Commissioner of Education.

3. When the illegal votes cast at a school district meeting would not change the result of any of the proceedings of such district meeting, the proceedings will not be set aside.

4. The chairman of a school district meeting is entitled to vote upon all questions coming before the meeting for determination.

5. The chairman of a school district meeting is not entitled to cast the deciding vote in case of a tie, if he has already voted on the question.

6. A man is not entitled to vote on account of the qualifications of his wife, nor is a woman entitled to vote upon the qualifications of her husband.

7. The law does not declare the *amount* of real estate which a person must own or rent to entitle such person to vote at a school district meeting.

8. The residence of a person must be *bona fide* to entitle such person to vote at a district meeting.

9. *Prima facie*, the place where a person lives is deemed his residence.

10. Where a person removes from one place to another with an *intention of making the latter his permanent residence*, that place immediately becomes his residence.

11. No person can vote upon *any* proposition before a district meeting who is not a qualified voter.

REVIEW QUESTIONS

Is there a difference between the qualifications of voters in common-school districts and those of the voters in union free-school districts? Is there in the penalty for illegal voting? Into how many classes may the voters of school district meetings be arranged? What are the qualifications of the first class? Second class? Third class? Fourth class? Can a person vote at a school district meeting if such person is not a resident of the district for which the meeting is held? State each of the four qualifications which a voter must possess. Can women possessing any of the four qualifications vote? Which of these four qualifications apply to married people? Which to single people? Who may vote on the qualifications of the second class, father or mother? Explain who are entitled to vote on the qualifications of the third class? What is a "residence."

Who may challenge the right of a person to vote at a district meeting? What declaration must a person challenged make? What is the effect of a challenged person's making such declaration? A refusal to make such declaration? Can the officers of a district meeting pass upon the qualifications of a voter? Even if the officers *know* that a false declaration has been made, can they refuse to accept the vote of the person who made it? What course may be pursued in such case? What is the penalty for making a false declaration regarding the right to vote? What is the penalty for illegal voting at a district meeting when the voter has not been called upon to make a declaration?

Can an alien vote at a school meeting if he possesses all other qualifications of voters? What action may be taken upon any proceedings of a district meeting carried by illegal votes? If the illegal votes cast do not affect the result of any proceedings, what is the ruling of the Commissioner of Education? Upon what questions may a chairman of a meeting vote? Can a chairman cast a deciding vote in case of a tie if he has already voted on the question? May a man vote on qualifications possessed by his wife? May a woman vote on the qualifications of her husband?

Does the law fix the amount of the real estate a person must own or rent to qualify him to vote? Explain the rulings of the Commissioner of Education as given in numbers 8, 9, and 10 of this chapter.

CHAPTER IX

COMMON-SCHOOL DISTRICT OFFICERS

[Article 8]

Officers of Common-School Districts.—The officers of a common-school district are a trustee or trustees (as determined by the district), a clerk, a collector, a librarian, and a treasurer when the district has decided to elect such officer.

TRUSTEE

Eligibility.—To be eligible to the office of trustee a person must possess *two* distinct qualifications. He must be a qualified voter of the district, and must also be able to read and write. A woman possessing these qualifications is eligible to hold the office of trustee.

Prohibitions.—Trustees are prohibited from holding the office of district clerk, collector, treasurer, or librarian; also from holding the office of district superintendent or supervisor. A trustee accepting any of these offices would upon the acceptance of such other office vacate the office of trustee. A person holding the office of clerk, collector, treasurer, or librarian who should accept the office of trustee would also, upon the acceptance of the office of trustee, vacate such other office.

Election.—The election of trustees must take place at the annual meeting in all districts. The election must be by ballot and the trustees must supply ballot-boxes for this purpose. The district meeting must by some method appoint two inspectors of election. This may be done by adopting a motion to instruct the chairman or clerk of the meeting to appoint such inspectors. A motion or resolution might be adopted naming two inspectors.

The district meeting might also pursue any other method in selecting the inspectors.

In all cases the election must be by ballot. Even if the name of but one person is presented to the district, the election of such person, to be legal, must be by ballot. The votes cast for trustee must be deposited in the ballot-box provided for that purpose. The inspectors should report the result of the vote to the chairman, who should announce the result to the meeting, and the person receiving the majority of all votes cast is duly elected.

In cases where the election was not by ballot, the Commissioner of Education has held, when such cases were duly presented to him upon appeal, that such elections were void and has ordered that new elections be held in such districts.

The ballots used in school district elections must be printed or written, or partly printed and partly written, and must contain the name of the person voted for and the title of the office. The names of all officers to be elected may be on one ballot, as

TRUSTEE

John Jones

CLERK

William H. Smith

COLLECTOR

George Brown

The district clerk should keep a poll-list showing the names of all persons whose votes are received.

Term of Office.—The term of office of a sole trustee is one year, and *one year* as defined by the school law means from August first to July thirty-first following. The full term of a joint trustee is three years. In districts having three trustees these officers are called *joint trustees*. The term of office of trustees chosen at the first meeting of a new district expires on the thirty-first day of July succeeding the date of such meeting and the date of the annual meeting.

Number of Trustees in a Common-School District Determined.—At the first annual meeting held after the formation of a new district, the electors of such district shall determine by resolution whether such district shall have one or three trustees. A majority of those present and voting shall decide the question. If the district should decide to elect three trustees, the electors present at the meeting should proceed to elect three trustees for terms of one, two, and three years, respectively. The ballots cast for these trustees should designate for which term each is elected. At each succeeding annual meeting thereafter, one trustee should be elected for three years to succeed the trustee whose term of office will expire at such time. Until further action is taken by a district at an annual meeting its decision to have three trustees or one, as the case may be, shall remain in force.

Reduction of Number of Trustees.—In a district having three trustees, the electors of such district may, at any annual meeting, by resolution, decide to reduce the number of trustees of such district from three to one. The votes of a majority of those voting are sufficient to adopt such resolution. When a district decides to change to one trustee, no trustee should be elected for such district until the term of office of each trustee has expired, and thereafter at each annual meeting but one trustee should be elected, until different action is taken by some future annual meeting.

Increase in Number of Trustees.—In a district having but one trustee, the electors may at any annual meeting, by resolution, increase the number of trustees for such district from one to three. The vote necessary to adopt such resolution is *two-thirds* of the legal voters present and voting at such annual meeting. Upon the adoption of a resolution to make such change in the number of trustees, the annual meeting should proceed to elect three trustees in the same manner as when the first annual meeting of a district decides to elect three trustees, and as described in this chapter. Thereafter, at each annual meeting,

but one trustee should be elected for a term of three years to succeed the trustee whose term of office expires at that time.

Notification of Election.—It is the duty of the district clerk, or of the person who acts as clerk of the district meeting, to notify in writing all persons elected to any office immediately after such election.

Acceptance and Refusal of Office.—The presence of any person at a district meeting which elects him to a district office, is deemed sufficient notice to him of his election.

All persons elected to district offices are deemed to have accepted such offices unless within five days after having received notice of such election they shall file with the district clerk a written refusal to accept.

Failure to Elect Trustees at Annual Meeting.—If an annual meeting, or the meeting of a district which elects its officers on the Wednesday following the annual meeting, should be held without electing trustees, it has been decided by the State Department that the trustees holding over are trustees for the ensuing year, as no vacancy exists which can be filled by election or appointment.

Resignation.—1. A trustee may resign to a district meeting.

2. He is also deemed to have resigned if he files a written resignation with the district superintendent and such superintendent indorses thereon his approval and files the same with the district clerk.

Vacancy in Office.—The office of trustee may be vacated by death, by removal from the district, by incapacity, by refusal to serve, by resignation or by removal from office by the Commissioner of Education.

A trustee who publicly declares that he will not accept or serve in the office, or who refuses to serve, or who neglects to attend three successive meetings of the board of trustees of which he has been duly notified, vacates his office by refusal to serve, unless he renders a good and valid excuse therefor to the other trustee or trustees.

Removal from Office.—The only person authorized to remove a trustee from office is the Commissioner of Education. Such commissioner may remove a trustee for either of the following causes :

1. The wilful violation or neglect of duty under the education law or any other act pertaining to common schools.
2. The wilful disobedience of any decision, order, or regulation of the commissioner.

All proceedings in cases of this kind must be brought before the Commissioner of Education by petition in the form of appeals asking for the removal of the trustee.

Supplying Vacancy.—Whenever a vacancy occurs in the office of trustee it may be filled by a special meeting of the school district, duly called, in which the vacancy exists. If such vacancy is not filled by a special meeting within one month from the date on which it occurred, the district superintendent of the supervisory district in which the school district is located may appoint some eligible person to fill such vacancy. The person selected by a district meeting to fill such vacancy may serve for the balance of the unexpired term, but when appointed by a district superintendent such trustee may serve until the date of the next annual meeting of the district.

Filing Appointment—Notice.—Whenever a district superintendent appoints a trustee to fill a vacancy, such appointment must be in writing and must be filed by the superintendent in the office of the district clerk. Upon receipt of such notice of appointment the district clerk should immediately serve a copy upon the person appointed.

Penalty for Refusal to Serve or Neglect of Duty.—Any duly qualified person elected or appointed to the office of trustee, who refuses to accept the office, forfeits the sum of \$5.

Any duly qualified person elected or appointed to the office of trustee, who has not refused to accept but who neglects to perform the duties of the office, forfeits \$10.

Acceptance of Resignation.—Whenever the trustee of any district files his written resignation with the district superintendent having jurisdiction, and the district superintendent files such resignation and his acceptance thereof with the district clerk, the filing of such resignation and acceptance is a bar to the recovery of either penalty mentioned in the preceding paragraph. Neither can the penalty be recovered if such resignation is made to, and accepted by, a district meeting.

Board of Trustees.—The trustee or trustees of every school district are constituted a board of trustees and are, under the law, corporate bodies. This applies to district having one or three trustees, whichever the case may be. Whenever the term "board of trustees" is used in this work it may be applied to a district having a sole trustee as well as to those having more.

Corporate Bodies.—As boards of trustees are corporate bodies under the law, it is necessary to have a clear idea of the meaning of that term. A corporate body consists of one or more natural persons, established by law, usually for some specific purpose, and continued by a succession of members. (Bouvier's Law Dictionary.)

Hold Property as a Corporation.—Boards of trustees may hold as a corporation any property vested in or which may at any time be transferred to the trustee or trustees of a district for the use of such district.

Powers of Sole Trustee.—A board consisting of a sole trustee has all the powers that a board of three trustees possesses. It is also subject to the same duties, liabilities, and penalties that are conferred or imposed by law upon a board of trustees or a majority of them.

Action of Board, How Determined.—As the trustees of a district form a board, any business transacted by them must be at a meeting of such board, duly convened. If two members of a board of three trustees attend a meeting of such board regularly called, and if the third member, having been notified,

fails to attend, any act, order, or decision agreed upon by such two members is as valid or binding as though such action had been agreed upon by all members of said board. If all three members of such board were present, and any two members thereof should agree upon any proposition before the board, the action taken would be valid and would be considered the action of the board. The minutes of the meeting shall recite the action or vote of each member, and such minutes, when showing that two members or a majority reached a conclusion upon any order, act, or motion, are proof of the action of such board.

Meetings of Board.—A board may fix a time at which it will hold regular meetings, and any member of a board, by giving at least twenty-four hours' notice, may order a special meeting of such board.

Trustees May Act When Vacancies Exist.—When there is one vacancy in the office of trustee in a district having three trustees, the remaining two trustees may exercise any powers vested in the board and are subject to all the duties and liabilities of three trustees. If two vacancies should exist on such board of trustees, the remaining member would be subject to the same duties and liabilities and could exercise the same powers as the three members, and as though such remaining trustee were a sole trustee.

Special Meeting to Fill Vacancy.—Whenever a vacancy exists in a board of trustees, the remaining trustees should immediately call a special meeting of the district for the purpose of filling such vacancy.

REVIEW QUESTIONS

What are the officers of a common-school district? What two qualifications must a person possess to be eligible to the office of trustee? What women are eligible to this office? What offices are trustees prohibited from holding? What would be the effect if a trustee should accept such office? When are trustees elected? How must such officers be voted for at school meetings? How are ballot-boxes supplied? How are inspectors of election chosen? Describe the process of voting for

a trustee at a district meeting. How may an illegal election be set aside? What kind of ballots must be used? Who keeps the poll-list at a district election?

What is the term of office of a trustee? What is *one year* in this meaning? What is the term of a joint trustee? What is meant by a joint trustee? How is the number of trustees for a district determined? Describe the process of election where a district decides to elect three trustees? At elections thereafter, how many trustees are elected and for what period? Describe fully how a district having three trustees may change to one. From one to three. Who should notify a trustee of his election? How? What is considered a notice of election? When are officers deemed to have accepted?

What is the ruling of the State Department in relation to trustees of districts in which an annual election did not occur? In what ways may the office of trustee become vacated? How may a trustee vacate his office by refusal to serve? Who may remove a trustee from office? For what reasons? How must such proceedings be brought? How may a vacancy in the office of trustee be filled by election? By appointment? When a vacancy is filled by election, for what period is a trustee chosen? For what period when appointed? How is the appointment by a district superintendent made? Where is it filed? What action must the district clerk take?

What is the penalty for refusing to accept the office of trustee? What is the penalty in cases where trustees do not refuse to accept, but refuse or neglect to perform their duties? What is a bar to recovery of penalty in either case? Explain the application of the term "board of trustees." What is a corporate body? What power have boards of trustees to hold property? What power have sole trustees? Explain fully how the action of a board is determined. What should the minutes of meetings of a board show? When are regular meetings of a board held? When may special meetings be held? In case of a vacancy on a board of trustees, what powers do the remaining trustees possess? In case of two vacancies, what power does the remaining trustee possess? When a vacancy on a board exists, what action should be immediately taken by the remaining members?

CHAPTER X

COMMON SCHOOL DISTRICT OFFICERS—(*Continued*) TRUSTEES, POWERS AND DUTIES

[Article 10]

The trustee of a school district is its most important officer. He is the executive officer of the district and has the general management of its affairs. He should execute such official acts as the law directs and should carry into effect instructions received at a district meeting, provided they do not conflict with the school law or with the authority vested in him by virtue of such law. The important powers and duties of trustees as defined by law are as follows:

Special Meetings.—To call special meetings when circumstances require it.

Notice of Meetings.—When there is no clerk of the district, or when the clerk is absent, is unable to act, or refuses to act, the trustees may give notice of special, annual, or adjourned meetings.

Tax-Lists and Warrant to Collector.—Whenever a district meeting has voted a tax, or whenever a tax is authorized by law, it is the duty of the trustees to make out a tax-list for such tax and annex thereto their warrant directed to the district collector, for the collection of the taxes included in such tax list.

To Purchase or Lease School-houses, Sites, etc.—When directed by a district meeting, trustees may purchase or lease a site or sites for school buildings. They may also, when directed by the district, build or purchase a school-house or school-houses. They may also hire rooms or buildings for school purposes.

Fuel and Furniture.—Trustees should also furnish school-houses, rooms, or school buildings with necessary fuel, furniture,

school apparatus, heating apparatus, and appendages; and they may pay the expense thereof when such expense is not more than \$50 in any one year, without a vote of the district. The district may vote an additional amount for this purpose.

Custody of Property.—Trustees are the custodians of the property belonging to the district; such as school-houses, sites, and appurtenances thereto.

Insurance of School Property.—To insure the school buildings, furniture, apparatus, etc., in some company created under the laws of this State, or authorized to do business in this State and to raise the premium to pay for such insurance by a tax upon the district.

Insurance of Library.—It is also the duty of trustees to insure the school library in such a company in an amount fixed by the district and to raise the premium by a district tax.

Employment of Teachers.—It is the duty of trustees to contract with all teachers employed in the district; to determine the number of teachers to be employed; and to determine their compensation, term of service, etc. A district meeting cannot by resolution restrict the power of a trustee in this respect. A trustee cannot legally employ a teacher who is not qualified under the law.

Removal of Teachers.—For reasons approved by the Commissioner of Education the trustees of a district may dismiss a teacher.

Rules and Course of Study.—It is the duty of trustees to establish courses of study, and rules for the government and discipline of the school. This must not be interpreted as meaning that trustees have the power to prescribe the method of imparting instruction, as this is a right vested solely in the teacher.

Trustees are also required to make provision for teaching the effects of alcoholic drinks, stimulants, and narcotics upon the human system.

Payment of Teachers' Salaries.—Trustees may draw orders upon the supervisor of the town or upon the collector or treas-

urer of the district for the payment of teachers' salaries from the public money received from the State for that purpose. When this money is insufficient, trustees may raise the remainder by a tax upon the district.

May Levy in Advance for Teachers' Salaries.—When there is no public money due a district or in the hands of district officers, and when no money has been raised by local taxation for the payment of teachers' salaries, and when a district meeting has not voted a tax therefor, the trustees may levy and collect, in advance, a tax sufficient to pay the salary of the teachers employed for the then current school year.

To Provide Water-Closets, etc.—It is the duty of a board of trustees to provide water-closets for their districts in the manner required by law, and it must keep them in a clean and wholesome condition. A failure to do this is sufficient cause to remove a trustee from office and to withhold from the district its share of public money. When a district is wholly unprovided with suitable outbuildings, trustees, upon direction from the district superintendent having jurisdiction, or from the Commissioner of Education, may spend \$50 in the erection of such buildings.

Repairs to School-houses, Staircases, etc.—It is the duty of trustees to keep all school buildings, furniture, and apparatus in proper repair and to make them reasonably comfortable for use. They may expend each year for this purpose, without a vote of the district, an amount not to exceed \$50.

Trustees are also required by law in all districts throughout the State, except the cities of New York and Brooklyn, to provide stairways constructed on the outside of all school buildings that are more than two stories high, with suitable doors connecting therewith from each story above the first. Trustees are directed to provide these stairways, without a vote of the district, at a reasonable cost, which shall be raised by tax as other taxes upon the district are raised.

May Abate Nuisances.—When they are so directed by the

district superintendent, it is the duty of trustees to abate any nuisance in or upon the school premises.

Clean Rooms—Employ Janitors, etc.—Trustees should see that the school-room is always reasonably clean, and should provide pails, brooms, and other implements necessary for such purpose. It is also the duty of trustees to employ a janitor to build fires, sweep and otherwise clean the school-rooms, and to do the janitor work generally in and about the school-house. They may pay a reasonable compensation for such services without a vote of the district, and may raise such money by tax in the same manner as other district taxes are raised.

Purchase of School Apparatus, Account Books, etc.—The trustees of a district may expend, without a vote of the district, for a dictionary, maps, globes, or other school apparatus, a sum not to exceed \$25 in any one year. They may also provide blank-books in which to record their accounts and in which to make a record of all business transactions of the district.

Trustees May Establish Temporary or Branch Schools.—Whenever it is established to the satisfaction of the trustees of a district that it is necessary to form a branch school in the district for the purpose of placing within the reach of a portion of the children of such district the school advantages to which all children are entitled, said trustee must establish such temporary or branch school. If a portion of a district is so remote from the school-house that the children of such locality are unable in inclement or winter weather to attend the regular school, without suffering unreasonable inconvenience or hardship, it has been held by the Commissioner of Education that such a state of affairs is sufficient ground for creating a branch school. Or if the rooms of the school building are overcrowded and insufficient for the accommodation of all children of school age, it is a proper reason for establishing a temporary school.

The trustees, under either of the above conditions, must hire and furnish suitable rooms in which to maintain such branch school, with proper accommodations, and all expenses incurred

are a charge upon the district. This power to establish a temporary or branch school is vested in the trustees without a vote of the district; but in exercising this power they must use proper discretion and be warranted under the circumstances to establish such school.

May Raise any Legal Tax.—When authorized by law or when directed by a vote of the district meeting to incur any expense for the district, trustees have the power and it is their duty to raise any such amount by tax in the same manner as if a specific sum had been voted by a district meeting.

Use of School Building.—The trustees of a district or any one of them, when not forbidden by another, may permit the use of the school building, when it is not in use for school purposes, for the purpose of giving and receiving instruction in any branch of education or in the science and practice of music. If one trustee should object, the school-house could not be used for such purpose, even if the other trustees consented.

The use of the school buildings for religious or other purposes is a different proposition. In cases of this kind it has been a ruling of the State Department, to which all State Superintendents and the Commissioner of Education have adhered, that, where no objection is raised, the school-house may, in the discretion of the trustee or trustees, be used for such purposes; but when any of the taxable inhabitants of a district object to the using of the school-house for religious services, Sunday-school, lodge or society meetings, etc., the trustee or trustees have not the authority to permit the school-house to be used for such purposes. Where a school-house is given for such use, upon appeal in due form to the Commissioner of Education, the trustees of such district will be restrained from permitting the school-house to be used for such purposes.

Trustees Shall Keep Accounts.—Trustees are directed by law to procure a blank-book in which they shall keep a correct account of all moneys received or disbursed by them, and of all orders drawn upon the supervisor, collector, or treasurer.

Trustees Must Make Annual Reports to District.—Trustees are required by law to make a written report to the annual meeting of the district. This report must cover all official business transacted by them during the year. It must show the amount of money the district received from the State, the amount of money raised by tax upon the district, and the amount received from all other sources. It must also contain a detailed statement of all money paid out, to whom paid, and the purposes for which it was paid.

Trustees Must Make Annual Report to District Superintendent.—Trustees are required by law to make an annual report on the first day of August to the district superintendent in writing, and in the form prescribed by the Commissioner of Education. Blanks are provided for this purpose and the report must include such general statistics as the Commissioner of Education requires. If the district is a joint district, trustees must make a report for each of the counties in which the district is located. This report must be filed with the town clerk of the town in which the school-house is located.

Trustees Must Pay Balance to Their Successors.—A trustee should pay immediately, upon the expiration of his term of office, to his successor all moneys in his hands belonging to the district.

Refusal of Trustees to Render Account.—Any trustee who shall wilfully neglect or refuse to make an annual accounting, forfeits any unexpired part of his term of office and becomes liable to the trustees of the district for any money of the district in his possession. It is the duty of the trustees to sue such former trustee for such moneys, and when it is recovered to apply it for the use of the district.

Certain Acts of Trustees Misdemeanors.—Any trustee or trustees who shall give an order upon the supervisor of their town, or the collector or treasurer of their district, for payment of teachers' salaries when there is not sufficient money applicable thereto in the hands of such officers is guilty of a misdemeanor.

A trustee who appropriates public money for the payment of the salary of a teacher who is not legally qualified is also guilty of a misdemeanor.

Moneys a Trustee May Receive.—A trustee has no authority to receive or hold any of the public money apportioned to his district by the State, nor to receive or hold any of the money raised by local tax upon the district. This money must be received and held by the officers designated by law for that purpose, and paid by them upon the orders of the trustees. A trustee may receive money from the sale of real or personal property of the district, from insurance due the district, from bonds of the district issued and sold by him, from tuition fees, and from other sources. When a district has a treasurer who has given sufficient bond, all such moneys received by the trustee should be immediately paid over to the treasurer.

Liabilities of Trustees.—Trustees are responsible to their districts for any loss which the district sustains through their carelessness or neglect.

Interest in Contracts Prohibited.—A trustee should not be personally interested in any contract which he makes in behalf of the district.

REVIEW QUESTIONS

Who is the most important officer of a school district? Why? What acts should he execute? What is his duty in relation to special meetings? When may trustees give notice of school-district meetings? What is the duty of the trustees in relation to tax lists and warrants to collectors? When may trustees purchase or lease a site? When may they purchase or build a school-house? What amount may they expend for fuel, heating apparatus, school apparatus, furniture, etc., without a vote of the district? Who is the custodian of school property? What is the duty of trustees in relation to insuring property? What is the duty of trustees in regard to insuring libraries? What is the duty of trustees in relation to employing teachers? When may a trustee remove a teacher? Who may establish rules for the discipline and government of a school? Who can determine how such rules shall be enforced? Whose duty is it to provide courses of study for schools? By what orders may trustees pay teachers? When may trustees levy a tax in advance for teachers' salaries? For what period in advance may the salary of teachers be raised

by tax? May a trustee raise such money without a vote of the district? When should trustees divide the public money in portions? How should such portions be applied?

What is the duty of trustees in relation to the erection and care of water-closets? What is the penalty for a failure or refusal to comply with this provision? What amount may be expended by trustees in erecting such buildings? Who should keep school buildings in repair? What amount may be expended without vote of the district? What is the requirement in relation to staircases for school buildings? When should trustees abate nuisances? What is the duty of trustees in relation to cleaning rooms and employing janitors? What amount may trustees expend for a dictionary, maps, globes, or other school apparatus? When may trustees establish temporary or branch schools? For what purposes may trustees permit the use of school buildings? What is the rule relative to the use of school buildings for religious or similar purposes?

What record of accounts must trustees keep? To whom must trustees make reports? What must these reports show? With whom must the report to a district superintendent be filed? What should trustees do with district funds in their possession upon the expiration of their term of office? What is the penalty for a refusal of a trustee to render an account as required by law? What acts of trustees are misdemeanors? What moneys has a trustee no right to receive? What money may a trustee receive? What should he do with such money? For what are trustees responsible to their district? What prohibition does the law make as to contracts?

CHAPTER XI

COMMON-SCHOOL DISTRICT OFFICERS—(*Continued*)

CLERK, COLLECTOR, TREASURER, LIBRARIAN

General Provisions

[Articles 8 and 9]

Eligibility.—To be eligible to hold the office of clerk, collector, or treasurer of any common-school district a person must be a resident of the district and qualified to vote at its meetings and must also be able to read and write. Women possessing the above qualifications are eligible to these offices the same as men. These officers are prohibited from holding the office of trustee. If a person holding one of the above offices should accept the office of trustee, he would vacate the office held at the time he accepted the office of trustee.

Term of Office.—The term of office of clerk, collector, or treasurer is one year, and in a new district the term of office of these officers elected at the first meeting expires on the thirty-first day of July succeeding the date of such meeting and the date of the annual meeting.

Election.—These officers must be elected by ballot at the annual meeting in the same manner that trustees are elected, and that is described fully in the chapter on trustees under the heading "Election."

Notice of Election.—If any person elected to the office of clerk, collector, or treasurer should be present at the meeting at which such election occurred, his presence at such meeting is considered sufficient notice of his election. The clerk of the district, or the person acting as clerk, should immediately notify in writing the persons elected to these offices, of their election, and

unless a written refusal to serve is filed by such persons within five days from the date on which they received notice of such election, they are deemed to have accepted the office to which they were elected.

Penalty for Refusing to Serve.—Any qualified person elected or appointed to the office of clerk, collector, or treasurer, who files a refusal to serve, forfeits \$5; and any such person elected or appointed to any such offices, who does not file a refusal to serve, but who neglects or refuses to perform the duties of the office to which he was chosen, forfeits \$10 and vacates the office.

Bar to Recovery of Penalty.—Whenever a person elected to the office of clerk, collector, or treasurer shall file with the district superintendent having jurisdiction his resignation of such office and the district superintendent shall accept it and shall file such resignation and his acceptance thereof with the district clerk, such action is a bar to the recovery of any penalty for refusal to serve.

Vacancies.—1. A collector or treasurer vacates his office by not executing, as required by law, a bond to the trustees, and where these offices become vacant for this or any other cause, or where there is a vacancy in the office of district clerk, such vacancies may be supplied by appointment by the trustees of the district. The persons appointed to fill these vacancies may serve in such offices until the next annual meeting of the district and until other officers are elected and assume their duties.

2. Such officers may resign at a district meeting. They may also file a resignation with the district superintendent. If such officer approves the same in writing and files the resignation and his approval with the district clerk the officer is deemed to have resigned.

Filing and Notice of Appointment.—Whenever an appointment to fill a vacancy in the office of the clerk, collector, or treasurer is made by the trustees of a district, such trustees should immediately file such appointment with the district clerk, who

should immediately notify the person appointed of his appointment.

Removal from Office.—For sufficient reasons the Commissioner of Education may remove a clerk, collector, or treasurer from office. The proceedings are the same as in the removal of a trustee.

CLERK

Duties.—1. The clerk should keep a correct record of the proceedings of all district meetings, and record in a book provided for that purpose by the district a copy of all reports of the trustees to the district superintendent.

2. He should give notice as required by law of all special meetings called by the trustee, and give notice also of the annual meeting. When the office of trustee is vacant, it is the duty of the clerk to call special meetings. He should also give notice of adjourned meetings as required by law.

3. He should immediately, upon the election or appointment of any district officer, notify such officer of his election or appointment, and should also report the names and addresses of such officers to the town clerk of the town in which the school-house of the district for which such officers are chosen, is located. For a failure to file such notice, a penalty of \$5 may be imposed for each and every such neglect.

4. He should notify trustees of every resignation filed by the district superintendent.

5. He is required to preserve all records, books, and papers belonging to his office and to deliver them to his successor in office. For a refusal or neglect to do this he is subject to a fine of \$50 for the benefit of the district, which fine is to be recovered by the trustee.

6. Whenever a school district is dissolved he should deposit the records, books, and papers of such district in the town clerk's office, as required by the order of the district superintendent.

7. When required to do so by the board of trustees, he should

attend their meetings and keep a record of the proceedings of such meetings in a book provided for that purpose.

8. He is also required by law to keep all books and papers of the district that are in his possession open to the inspection at all reasonable hours of any qualified voter in the district, and to permit such voter to make copies of any such papers or records.

COLLECTOR

Bond.—Before receiving a warrant for the collection of taxes, a collector should execute and deliver to the trustees a bond with one or more sureties and in a sum fixed by the district, or when the district fails to fix an amount, in such sum as the trustees shall name. The trustees upon approving such bond should file it with the town clerk of the town in which the district is located.

***Duties.**—It is the duty of the collector to collect the taxes included in any tax-list for the district when directed to do so in the warrant of the trustees of the district; if the district has a qualified treasurer, to pay the taxes collected to such treasurer, and if the district has no treasurer, to disburse the money collected, upon the order of the trustee of the district.

The trustees of any district, which has not a treasurer, may direct that the collector of such district shall disburse the school moneys apportioned to the district by the State for the payment of teachers.

After a collector executes a bond to the trustees, with two or more sureties approved by them for double the amount of the sum last apportioned to the district, such collector may receive from the supervisor of the town the moneys in his hands belonging to the district and applicable to the payment of the salaries of teachers. The collector should then disburse such money

*The warrant of trustees, return of collector, and all matters pertaining to the collection of taxes is treated fully in the chapter on "School-District Taxes."

upon the order of the trustees. The bond should be approved by the trustees and filed in the office of the town clerk.

Penalty for Neglect of Duty.—A collector is responsible to the district for any loss it meets through his negligence in failing to collect any tax which might have been collected within the limit prescribed by the warrant.

Fee.—A collector is entitled to a fee of one per cent on all moneys voluntarily paid to him within thirty days from the date on which he gives notice that a tax-list has been issued, and on all moneys paid after that time he is entitled to five per cent. (See section 426.)

TREASURER

Determination of District to Elect Treasurer.—The qualified voters of a district may decide by a majority vote at any annual meeting, or at a special meeting called for that purpose, to elect a treasurer of the district. Upon such determination, the district meeting may proceed to elect by ballot a treasurer, who may hold such office until the next annual meeting or until a successor is chosen and has qualified.

Treasurer's Bond.—Within ten days after his notice of election, the treasurer should execute and deliver to the trustees of the district a bond in the sum fixed by the annual meeting or such sum as the trustees require, which should be at least double the amount of money such treasurer will receive, with at least two sureties approved by the trustees. When the bond is properly executed and approved by the trustees in writing, it should be filed with the district clerk.

Duties of Treasurer.—The treasurer is the custodian of all moneys belonging to the district.

After the treasurer has qualified by executing his bond, the trustees should pay to such treasurer all moneys of the district in their possession derived from any source whatever.

The collector of the district should pay over to the treasurer

all moneys collected by him under any tax-list and warrant issued by the trustees.

The treasurer is also authorized to receive and has power to demand and receive from the supervisor of the town in which his school district is located, all money in such supervisor's hands and belonging to such district.

The treasurer is to disburse the money held by him and belonging to the district, upon the order of the trustees of the district.

The treasurer must also report to the trustees, when they require it, the condition of the treasury, and must also make a detailed report at the annual meeting covering all business transacted by him for the district during the year.

LIBRARIAN

The subject of librarian is treated fully in the chapter on "School District Libraries."

REVIEW QUESTIONS

Who is eligible to the office of district clerk? Collector? Treasurer? Are women eligible to these offices? What office are these officers prohibited from holding? What would be the effect if a person holding one of these offices should accept the office of trustee? What is the term of office of each of these officers? What is the term when elected at the first meeting of a new district? When are these officers elected? How must these officers be elected? Who should notify these officers of their election? What will be considered a notice of election?

What must these officers do if they do not desire to accept? What is the penalty for refusing to serve in either of these offices? What is the penalty for neglecting or refusing to serve in either of those offices without filing a refusal to serve? What is a bar to the recovery of a penalty in either of these cases? What is the result of a failure of the collector or treasurer to execute a bond as required by law? How may a vacancy in the office of district clerk, collector, or treasurer be filled? For how long does a person appointed to fill a vacancy in any of these offices serve? When an appointment is made by a trustee, what should be done with such appointment? How may these officers be removed from office? What is the duty of a district clerk in relation to proceedings of district meetings? In relation to notice of meetings? Notification of election or appointment of officers? Reporting list of

officers to district superintendent? What is the penalty for a failure to file such report? Whom should he notify of the resignation of school-district officers? What is his duty in relation to the books, papers, and records of the district? What is the penalty for a failure to do this? What is his duty in relation to the records of dissolved districts? In relation to proceedings of meetings of the board of trustees? In relation to inspection of district records?

What must the collector do before he can enter upon the discharge of his duties? How many sureties must be given to his bond? In what amount? Who should approve such bond? Where should it be filed? What is the collector's duty in relation to taxes? What should a collector do with the money collected? What district may direct that the collector shall disburse the school money received from the State for teachers' wages? When may a collector receive from a supervisor the money due his district? For what is a collector responsible to the district? To what fee is he entitled? How may a district determine to have a treasurer? What bond must a treasurer give? In what amount? What is done with such bond? What is the general duty of this officer? From what three sources may he receive money for the district? How should he disburse the money of the district? What reports must he make?

CHAPTER XII

UNION FREE-SCHOOL DISTRICT OFFICERS

[Articles 9, 10 and 11]

TRUSTEE

Number.—The number of trustees in each union free-school district cannot be less than three, nor more than nine. The voters of the district at the meeting at which the first election occurs should decide on the number of trustees to be elected.

Date of Election.—The election of trustees, after the first election, of a union free-school district *whose boundaries do not coincide with those of an incorporated village or a city*, must occur at the annual meeting of such district, which takes place on the first Tuesday in May in each year, except in districts having over 300 children of school age, when the election may be held as hereinafter stated.

The election of trustees in a union free-school district *whose boundaries do coincide with those of an incorporated village or a city*, must occur on the date of the annual charter election of such incorporated village or city. The trustees in these districts should be elected in the same manner as the other officers of such incorporated village or city are elected. The ballots used in such election must be separated from the ballots for the other officers to be chosen at such election and must be endorsed "School Trustees."

Method of Election.—These officers must be chosen by ballot. The ballots may be printed or written or partly printed and partly written. Ballot-boxes should be provided for the purpose. Inspectors should be chosen by the meeting, who should receive all the ballots, deposit them in the ballot-boxes, and, after the

polls have closed, canvass the votes and announce the result. The candidate receiving a majority of all votes cast is duly elected.

Classification of Trustees.—When a union free-school district is organized, the officers chosen at the first election shall be divided into three classes to be known as the first, the second, and the third class. The first class shall hold office for one year from the next annual meeting, if the district is one whose boundaries do not coincide with those of an incorporated village or a city; and if the district is one whose boundaries do so coincide, then such first class shall hold office for one year from the date on which the next annual charter election of such incorporated village or city occurs. The second and the third class shall likewise hold office for two and three years respectively from these dates, according to the boundaries of the district.

Term of Office.—After the expiration of the term of office of trustees elected at the first meeting of a union free-school district newly organized, the term of office of trustees of such district is three years from the date of their election. *A year* in this sense means from the first day of August to the thirty-first day of July following.

Trustees Form a Board of Education.—The trustees of union free-school districts constitute the boards of education for those districts. The board of education of a district is known and designated as the “Board of Education of district number of the town of”

Eligibility of Trustees.—In order to be eligible to hold the office of trustee, or to become a member of a board of education in a union free-school district, a person must be a citizen of the United States, and a voter of the district in which such person is elected, and must also be able to read and write. Women possessing these qualifications are eligible the same as men. Not more than one member of a family can serve on a board of education in any district at the same time.

A district superintendent or supervisor is not eligible to be a member of a board of education. Hence, if a member of a board

of education should accept either of these offices he would thus vacate his office as such member.

Vacancies—How Filled, etc.—Vacancies in boards of education in any union free-school district may occur by death, by resignation, by refusal to serve, by removal from district, or by removal from office. When a vacancy does occur from any of these causes, the board of education should fill such vacancy at once by appointment. If the board of education should fail to fill such vacancy within thirty days from the date on which it occurred and if such vacancy is not filled by special election of the district within that time, the district superintendent having jurisdiction may appoint a qualified person to fill such vacancy. The Commissioner of Education has the authority to order a special election to fill a vacancy in a board in any district, and when such special election has been ordered, the vacancy shall not be supplied in any other manner.

Removal from Office.—A board of education has the authority to remove any member of the board for official misconduct. The member charged with such conduct should be furnished with a written copy of specific charges, at least ten days before the date fixed for the hearing. The accused member should also be allowed a fair and impartial opportunity to refute the charges preferred against him.

A member of a board of education may also be removed by the Commissioner of Education for sufficient cause.

In this procedure also, the accused member must receive notice of the charges standing against him and must have a fair chance to refute or disprove them. A willful failure to perform any duty required of him by the Commissioner of Education or a lack of proper diligence in obeying an order of such Commissioner, or any other willful violation or neglect of duty is sufficient cause for removal from office by such Commissioner.

Boards Bodies Corporate.—All boards of education are corporate bodies, and all school districts municipal corporations.

Annual Meetings of Boards of Education.—The annual meet-

ing of a board of education of a union free-school district whose boundaries *do not* correspond to those of an incorporated village or a city, is held on the first Tuesday in August of each year.

But the annual meeting of a board of education of a district whose boundaries *correspond* to those of an incorporated village or a city is held on the first Tuesday following the date on which the annual charter election of such village or city is held.

Boards Select Their President.—At the first meeting of a board of education and at each annual meeting thereafter, such board shall elect one of their number president.

Appointment of Clerk of the Board.—The board of education of a district whose boundaries do not coincide with those of an incorporated village or a city may appoint one of their number, or some other qualified voter of the district, who is not a teacher employed therein, clerk of the board of education. The clerk must perform the clerical work of the district and of the board, and is entitled to the compensation fixed by the district meeting. If the district meeting fails to fix the compensation of the clerk, the board of education should fix it.

If a vacancy occurs in the office of clerk, such vacancy may be supplied by appointment by the board of education.

In a union free-school district whose boundaries coincide with those of an incorporated village or a city, the clerk of such village or city usually acts as clerk of the board of education.

Appointment of Treasurer and Collector.—The board of education of a union free-school district whose boundaries do not correspond to those of an incorporated village or a city, has authority to appoint a district treasurer and a collector. These officers hold their appointments subject to the pleasure of the board. The treasurer is to hold and disburse upon the orders of the board the moneys of the district. The collector should collect the taxes on all tax-lists placed in his hands for that purpose and pay over such money to the treasurer.

In a district whose boundaries do coincide with those of an incorporated village or a city, the treasurer and the collector of such village or city act as the treasurer and the collector of such district.

Bonds of Treasurer and Collector.—The treasurer and the collector shall each within ten days after written notice of their appointment, and before entering upon the discharge of their duties, execute and deliver to the board of education in the amount which they may require, a bond with proper penalties and sureties for the faithful discharge of their duties.

Failure to Execute Bonds.—If either the treasurer or the collector should fail to execute the required bond within the specified time, the office becomes vacant and the board should fill it by appointing another person.

Librarian.—Boards of education have authority to appoint from time to time such librarians as in their judgment are necessary to take proper care of the libraries of the district.

Who May Vote for Officers in Union Free-School Districts.—Where no provision is made by special enactment, the general law defines the qualifications of voters at union free-school district meetings. (See chapter on “Qualifications of voters.”) Persons coming within these provisions may vote for officers at elections in these districts.

The right of *women* to vote for the election of officers in a union free-school district whose boundaries coincide with those of an incorporated village or a city, is frequently claimed. The charters of cities or villages, or the special school acts governing the schools therein, in some cases contain a provision defining who may vote for members of the board of education. In such cases this special provision governs instead of the general law, and by it women might be debarred from voting. A provision that persons entitled to vote for members of assembly in such cities or villages would be qualified to vote for school officers, would exclude women; but in the absence of any such special

provision women, as well as men, may vote for school officers, if they possess the requisite qualifications.

Changing Number of Trustees.—1. If fifteen resident taxpayers of a union free-school district whose limits correspond to those of an incorporated village or city petition their board of education for a special meeting to decide to change the number of members of such board such special meeting must be called at least 30 days prior to the annual charter election. If the proposition to increase the number of members is adopted, such additional members shall be elected at the next annual election. If the proposition to decrease the number should be adopted no member shall thereafter be elected until the number of members is less than the number determined upon at such special meeting.

2. In a union free-school district whose boundaries are not coincident with those of an incorporated village or a city the board of education must include in its notice of the annual meeting a statement that the proposition to increase or to decrease the number of trustees will be voted upon at such annual meeting if fifteen voters of the district file a request therefor with such board. If the board fails or refuses to give such notice, it may be given in the manner directed by the Commissioner of Education. The question can not be legally voted upon unless the notice is given.

If it is decided at the annual meeting to increase the number of trustees, the meeting should elect the additional number agreed upon and divide such number into classes whose terms expire in one, two and three years respectively.

If it is decided to decrease the number of such trustees no trustee shall be elected until the number is reduced to that determined upon at the annual meeting.

ELECTION OF OFFICERS IN DISTRICTS HAVING MORE THAN 300 CHILDREN

Action of District.—In a union free-school district having *more* than 300 children of school age, which fact must be shown

by the last annual report of the board of education to the district superintendent, a majority of the qualified voters at any annual meeting or at a special meeting called for that purpose, may decide that the *election of trustees* shall be held on the Wednesday next following the date fixed by law for holding the annual meeting of such district. Until such decision of the district shall be changed, the time for holding the election of officers of such district shall occur on such Wednesday, between the hours of twelve o'clock noon and four o'clock P. M., and the trustees may by a resolution extend the time of such election until sunset.

When Notice is Required.—When the holding of such election is to be at some place other than the public school-house, the trustees shall give notice of the place at which the election is to be held, at least one week before the time for holding such election. This notice must be given by publishing the same in some newspaper of the district or by posting it in three conspicuous places in the district.

The election of members of the board of education in these districts must not be confounded with the annual meeting. The annual meeting of such districts must occur on the first Tuesday in May in each year, as required by law. All the business of the district to be transacted at the meeting of such district must be transacted at the annual meeting. *The election of members of the board of education only, must occur on the Wednesday following the annual meeting and no other business can be transacted at that time.*

Inspectors of Election.—The board of education shall act as inspectors of election. If a majority of the members of the board should not be present at the time the polls should open, those members present may appoint any of the legal voters of the district who are present to act as inspectors in the absence of the members of the board. If none of the members of the board are present at the time the polls should open, the legal voters present may choose three of their own number to act as inspectors.

Record of Voters.—The clerk of the board of education is required by law to keep a record in a book provided for that purpose of the names of all voters who deposit their ballots at such elections.

Refusal to Keep Record.—Any such clerk who shall refuse to keep such record or who shall neglect to perform his duties in this respect shall forfeit a sum of twenty-five dollars, to be sued for by the supervisor of the town.

Challenge of Voters.—Any qualified voter at such elections may challenge the right of any person to vote whom he has reason to think is not entitled to vote at such election. Any person thus challenged must make the following declaration before his ballot can be accepted: "I do declare and affirm that I am and have been for thirty days last past an actual resident of this school district and that I am legally qualified to vote at this election."

Upon a challenged party's making such declaration, the inspectors of election must accept his ballot.

Penalty for Illegal Voting.—Any person, who, being challenged, shall willfully make a false declaration of his right to vote, is guilty of a misdemeanor. Any person not legally qualified who shall vote at such election or district meeting, without being challenged, shall forfeit the sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district.

Ballot-Boxes.—The board of education should provide at the expense of the district suitable ballot-boxes, in which the ballots of voters shall be deposited.

Ballots.—These officers must be elected by ballot. The ballots used must be either printed or written, or partly printed and partly written.

Canvass of Votes.—The inspectors shall count the votes cast, after the polls have closed. If the number of ballots exceeds the number of names on the poll-list kept by the clerk, the inspectors shall withdraw ballots enough to make them corre-

spond. The inspectors shall then count the votes and announce the number cast for each candidate. Those receiving a plurality of the votes cast, are elected to the various offices for which they received votes. The clerk should make a record of the result announced by the inspectors.

Special Election.—Whenever the time passes on which an election should be held, without the election's taking place, the board of education may call a special meeting for such election. If the board fails to call such election within twenty days after such time has passed, the district superintendent having jurisdiction, or the Commissioner of Education, may order any inhabitant of the district to give notice of a special meeting for such election. This notice must be given by being published in two newspapers of the district once each week for four weeks, and if two newspapers are not published in the district, but one is, the notice may be published in such paper. If no paper is published in the district, then such notice must be posted in at least twenty of the most public places in the district at least twenty days prior to the date on which the meeting is to be held.

Terms of Officers Chosen at Special Election.—The officers chosen at a special election shall serve three years from the date of such election and until their successors shall have been elected and qualified.

Settlement of Election Disputes.—All disputes relating to the regularity of these elections and to any acts of the inspectors or clerk should be referred to the Commissioner of Education for settlement. His decision in such matters is final.

Limitation of These Provisions.—These provisions do not apply to union free-school districts in cities, nor to any union free-school district whose boundaries coincide with those of an incorporated village. Nor can such provisions apply to any union free-school district organized by a special act in which the time and method of electing officers in such district shall be fixed by a special provision which differs from the general law. Nor do these provisions apply to any of the union free-school

districts of the counties of Suffolk, Chenango, Warren, Erie, and St. Lawrence. The election of officers in any union free-school district of any of these counties, whose boundaries do not coincide with those of an incorporated village or a city, must be held on the first Tuesday in May, the date of the annual meeting.

REVIEW QUESTIONS

How many trustees in a union free-school district? How is the number determined? When does the election of trustees in union free-school districts whose boundaries *do not coincide* with the boundaries of an incorporated village or a city occur? When in districts whose boundaries *do* thus coincide? In the latter case how are such trustees elected? What is the requirement relative to ballots? In all cases how must trustees be chosen? What kind of ballots must be used? How are inspectors chosen at such election? What are their duties? How should the first trustee of a union free-school district be classified? For what period does each class hold office? What is the regular term of office? What is *one year* in this meaning?

What constitutes a board of education? How is a board of education named? Who are eligible to membership on a board of education? Are women eligible? When? How many members of a family may serve on the same board? Is a school commissioner eligible? A supervisor? If a member of a board of education should accept either of these offices, what would be the result? How may vacancies on a board occur? When a vacancy does occur how should it be filled? Who may order a special election to fill such vacancy? If it is not filled by the board of education within twenty days and if a special meeting is not called within that time, how may such vacancy be filled?

For what reasons may a board remove any of its members? What are the proceedings in such cases? What privileges should be allowed the accused member? By what other authority may a member of a board be removed? What are considered sufficient causes for removal? What are the proceedings in such cases? When is the annual meeting of a board of education held? How is the president of a board of education chosen? When?

How is a clerk chosen? What are the qualifications of a clerk? What are a clerk's duties? Who determines the compensation of a clerk? Who is clerk of the board of education of a union free-school district whose boundaries coincide with those of an incorporated village or a city?

How is a treasurer chosen in a district whose boundaries coincide with those of an incorporated village or a city? A collector? Who are eligible to these offices? For what period are they appointed? What is the duty of the treasurer? Of the collector? What bond must each

of these officers give? Within what period? For what amount? What is the effect if these bonds are not given? How are such vacancies filled? What is the duty of a board in relation to librarians?

Who are entitled to vote for officers in union free-school districts? In what cases may *women* vote for these officers? In what cases are they not entitled to vote? Explain fully how the number of trustees may be changed in each class of union free-school districts.

What union free-school districts may elect officers on the Wednesday following the annual meeting? When? Between what hours must such election occur? Until what time may the election be extended? Where is such election held? When may it be held elsewhere? What notice must be given of such change of place? What business only can be transacted at such election? When must the *annual meeting* of such district be held?

Who act as inspectors at such election? If a majority of the board are not present at the opening of the polls, how are such vacancies filled? If none of the members of the board are present, how are inspectors chosen? What poll-list should be kept? By whom? What is the penalty for refusal to serve in this capacity?

Who may offer a challenge at such election? What affirmation must the challenged person make? Upon his making such affirmation what must the inspectors do? What is the penalty for making a false declaration? What is the penalty for illegal voting when not challenged? How is such fine collected? For what purpose should it be used?

By whom should ballot-boxes be supplied? How must officers be elected at these elections? What kind of ballots may be used? Describe how the votes cast should be counted?

When should a board of education call a meeting for a special election? When may a district superintendent order such election? The Commissioner of Education? What notice must be given of such election? For what period are the officers elected at such special meeting chosen? How are all disputes relating to such elections settled? To what districts do not these provisions for election of officers apply?

CHAPTER XIII

BOARD OF EDUCATION—POWERS AND DUTIES

[Article 11]

Adopt By-Laws for its Government.—A board of education has authority under the law to adopt such by-laws and rules for its government as it shall deem necessary to discharge properly the duties imposed upon it by law.

Adopt Regulations for Schools.—A board has authority also to adopt such rules and regulations as it shall deem wise and necessary for the promotion of the educational interests of the district, for the preservation of order and discipline in the schools, and for the protection of the district's property.

While a board has authority to adopt general rules to govern a school and to aid in the discipline thereof, such authority must not be construed as giving the board absolute power to control the discipline and order of the school. General rules may be adopted by the board, but the teacher is the authority to execute such rules, and may determine a mode of punishment not in conflict with the rules of the board. A teacher has authority also to establish such rules for the preservation of order as are not in conflict with the rules adopted by the board.

Courses of Study.—It is the duty of boards of education to arrange courses of study for the schools under their jurisdiction, to determine in what manner pupils shall be graded or classified, and to determine the basis upon which pupils shall be promoted from grade to grade, or from one department to another department.

By special provision of law, boards of education are required to provide for instruction in physiology and hygiene, with

special reference to the effects of alcoholic stimulants and narcotics upon the human system.

Prescribe Text-Books.—They are to prescribe the text-books to be used in the schools under their charge, and to require a uniformity in the use of such books. They shall also furnish text-books to poor pupils out of any moneys provided for that purpose, and free text-books for all pupils when funds have been voted therefor.

Purchase Sites.—When directed to do so by a district meeting, boards of education should purchase a site or sites or an addition to a site or sites for school-houses.

Erect and Repair Buildings.—They should construct a school-house or school-houses when directed to do so by a district meeting, and should keep the school buildings in good repair.

Purchase Furniture, Apparatus, etc.—A board of education has the authority to purchase all necessary furniture, apparatus, fuel, and other necessities, and to keep the furniture and apparatus in good repair.

May Hire School Rooms and Furnish Them.—When the rooms in a school-house are overcrowded and the capacity of a school-house is insufficient to accommodate all the pupils, or when the school-house has been injured or destroyed in any way so as to render it unfit for use, the board of education may hire suitable rooms in which to conduct the school, and may fit up and furnish such rooms in a suitable manner, for the purpose of conducting school therein.

Insure School Property.—The board should insure all school buildings and appendages thereof owned by the district, the furniture and apparatus, and the library, in a company created under the laws of the State or authorized to do business in the State. The board has power to raise the premiums by tax upon the district.

Custody of Property.—The custody and possession of all public school buildings, sites, lots, furniture, books, apparatus and *all* school property, and the title to the same are vested,

in union free-school districts, in the board of education in each of such districts. For any and all purposes this property is exempt from taxation.

May Sell Property and Exchange Real Estate.—When a board of education is so authorized by the qualified voters of any district, it may sell at such price and upon such terms as directed, any former lot or site and any real estate the title of which is vested in the board, and any buildings or appurtenances thereon. The board has authority also to convey any such property by deed and to execute the same, which may be done by a majority of the members of the board or by some officer or member of the board duly empowered by the board to make such conveyance. Any money realized from the sale of such property must be applied by the board as directed in a resolution by the voters of the district.

The board may also, when so directed, exchange any real estate belonging to the district for the purpose of improving or changing the school-house site.

May Hold Real Estate in Trust.—A board of education may take and hold any real estate for the use of the schools or any department of the schools of their district, transmitted to the district by gift, grant, bequest or devise; or any gift, legacy, or annuity given or bequeathed to said board. Such board must apply the same, or the interest or proceeds thereof, as directed by the donor or testator.

Control of Schools.—Boards of education of union free schools have in all respects the superintendence, management, and control of such schools. In such control and management a board must be governed by the statute, and by the general power given the Commissioner of Education.

Establishment of Academic Department.—The power to establish an academic department is vested in the board of education. This may be established whenever the board deems it necessary.

Admission of Non-Resident Pupils to Academic or Other Departments.—The admission of non-resident pupils to the academic or other departments shall be under the regulations adopted by the board of education, and the fee to be charged such students for this privilege shall also be regulated by the board. Whenever the parent or the guardian of non-resident pupils shall be taxed for school purposes, because of property owned by either of them and assessed in the district at which such non-resident pupils attend school, the amount of tax thus paid must be deducted from the tuition fee to be paid.

Employment of Teachers.—It is the duty of a board to employ all teachers required for the schools under their jurisdiction and the departments thereof. Such teachers must be legally qualified, as required by law. No teacher who is related by blood or marriage to any member of a board can be employed as teacher by such board, except upon the written consent of two-thirds of the members of the board, and the fact of such consent must be entered on the proceedings of the board.

It is the duty of each board at the time of employment to deliver or cause to be delivered to each teacher, a written contract, signed by the members of the board or by some person duly authorized to represent the board. This contract should express the terms of agreement between the board and the teacher, and should be explicit as to the amount of compensation, term of employment, the times when salary shall be paid, and the grade of teaching or department in which the teacher is to be employed. The salary must be paid under the law as often as at the end of each calendar month of the term of employment. Boards are also directed to pay the wages of teachers out of money appropriated for that purpose.

Removal of Teachers.—A board of education cannot remove a teacher during his or her term of employment except for neglect of duty, incapacity to teach, immoral conduct, or other cause approved by the Commissioner of Education.

May Fill Vacancies in Board—May Remove Members.—

The board of education may fill any vacancy which may arise on such board. A board may also remove any of its members for official misconduct. But first, the board must serve on the member thus charged, a copy of the written charges, which must be specific; and this copy must be served on such member at least ten days before the date fixed for the hearing. The accused must also be allowed a full and fair opportunity to refute the charges thus made.

Water-closets, Stairways, etc.—It is the duty of a board of education to provide two suitable and convenient water-closets for each of the schools under their charge, as required by law, and the board must keep them in a clean and wholesome condition. Any tax involved for this purpose may be levied and assessed upon the district without a vote at a district meeting. (See chapter on "Sites and school buildings.")

The board shall also cause to be erected and maintained on the outside of all school buildings which are more than two stories high, proper stairways with doorways leading thereto from each floor above the first, for use in case of fire. The tax for this purpose may likewise be levied by the board without a vote of the district.

General Powers and Duties.—By provision of law, boards of education possess all the powers and privileges and are subject to the same duties in relation to common schools or common-school departments in any union free school in said district which are possessed by the trustees of common schools or to which such trustees are subject under the school law and which are not inconsistent with the provisions of law governing union free schools. When an academic department has been established by a board, the board possesses the same powers that are held by the trustees of academies.

Board May Appoint Superintendent of Schools.—In any union free-school district which has a population of five thousand or more, the board of education may appoint a superintendent

of schools. The population of such district shall be ascertained by an enumeration of the inhabitants therein; the expense of such enumeration shall be a charge upon the district. Such superintendent shall be under the direction of the board of education and the board shall prescribe his duties and fix his compensation. He may be removed from office by a majority vote of the board.

A district thus employing a superintendent is entitled to receive from the State, in its apportionment of the State school moneys, the additional sum of eight hundred dollars.

Record of Proceedings.—Boards are required to keep an accurate record of all of their proceedings in books provided for that purpose, and these records must be open to the inspection of qualified voters of the district at all reasonable hours.

Must Publish Statement of Receipts and Disbursements.—Boards of education are required by law to publish each year at least twenty days immediately preceding the annual meeting of the district a full and complete detailed account of all moneys received by the board or by the treasurer and of each item of purchase or expense and the amount thereof. This may be published in a newspaper; but if no newspaper is published in the district, the statement must be posted in at least five public places in the district.

Board Should Report Estimated Expenses.—The board should report to the annual meeting an estimate in writing of the money needed for school purposes for the ensuing year. This report should state the purposes for which the money will be needed and the amount for each of such purposes. Such statement could also be presented at a special meeting called for that purpose.

Vote on Taxes for Such Estimate.—In a union free-school district whose boundaries do not coincide with those of an incorporated village or a city, the annual or special meeting, upon receiving such estimate, should vote upon levying taxes to meet such estimated expenditures. If demanded by any voter, a

separate vote should be taken upon each item. The meeting may increase the amount for any item and may decrease the amount for any item, except for teachers' wages and contingent expenses.

Board May Levy Tax Without Vote.—If a meeting should neglect or refuse to vote the estimated amount for teachers' salaries, the board, after applying all available funds therefor, may levy a tax upon the district for the balance of the money needed, without a vote of the district to authorize it. The same action may be taken by the board on the amount estimated for contingent expenses.

Settlement of Disputes on Contingent Expenses.—All disputes that may arise as to what contingent expenses are, should be referred to the Commissioner of Education and his decision shall be final.

City or Village Authorities May Levy Tax.—Boards of education in union free-school districts whose boundaries coincide with those of an incorporated village or a city, should prepare a written statement, addressed to the corporate authorities of such village or city, showing the amount of money necessary for teachers' wages and for the ordinary contingent expenses of the district. The statement should be specific, showing the several items and the amount of money therefor for which it is proposed to make an expenditure. The corporate authorities, upon the receipt of such statement, should levy a tax upon the real and personal property of their village or city, in the same manner that taxes are levied for the expenses of the municipal government, and for the same amount that the board of education claimed in their statement would be necessary for school purposes. Such corporate authorities have no discretion in the matter whatever, but are required to levy such tax.

Whenever the voters of such union free-school districts shall have decided at a special meeting, duly convened, to expend any amount for a new site, in addition to the present site, or for the erection of school buildings, or for apparatus or fixtures, or for any other purpose for the welfare of the school system

of such district, the said corporate authorities must also raise such amount by tax in the same manner as for any other corporate purpose.

Regular Meeting.—Boards of education are required by law to hold regular meetings at least once each quarter, and they may hold them oftener.

The meetings of a board shall be public and any legal voter of the district may be present. Boards may, however, hold executive sessions, and at such sessions only members of the board or those invited by the board shall be present.

Visitation of Schools.—Boards shall appoint from their members visiting committees, whose duties shall be to visit the schools and departments under their supervision at least twice each quarter and to present a report to the board at its next regular meeting after any such visits have been made.

Money to be Held by City or Village Treasurer.—All moneys raised for the support of union free schools in any city or incorporated village, or apportioned to such districts from the income of the literature, the common-school, or the United States deposit funds, or from any other source, must be paid into the treasury of such city or district. This fund must be kept by the treasurer separate from all other funds in his possession. The treasurer is also required to give such additional security for the safe keeping of this money as the corporate authorities may require.

How Money Shall be Disbursed.—Before any of such money shall be disbursed the board of education must pass a resolution directing what amount shall be expended and the purpose or purposes for which it shall be used. Upon such resolution of the board, drafts shall be drawn by the president and countersigned by the secretary or clerk. These drafts should show the purposes for which the money is expended.

Moneys to be Held by Treasurer of Board.—All moneys raised in a union free-school district whose boundaries do not coincide with those of an incorporated village or a city, and all

moneys apportioned to such districts from any fund or source shall be paid to the treasurer of the Board of Education.

Disbursement of Such Moneys.—Moneys in these districts shall be disbursed in the same manner as they are by treasurers of incorporated villages or cities.

Supervision of Commissioner of Education.—The Commissioner of Education has general supervision of each and every union free school and all their departments. He also has general supervision of boards of education and their management of the school system.

Boards to Make Reports.—On the first day of August of each year every board of education must file with the town clerk of the town in which the school-house of its district is located, a report to the Commissioner of Education for the school year ending July 31st preceding. The report should include all information required by law and all that the Commissioner of Education shall require. Boards of education must also, upon the request of the Commissioner of Education, make a special report to him on any designated subject relating to the condition of their school or schools.

Board of Education May Adopt an Academy as an Academic Department.—If an academy exists in a district organized as a union free-school district, the board of education, if directed by a vote of the district to do so, may adopt such academy as the academic department of the union free-school district. Consent to such transaction must, of course, be obtained from the trustees of such academy. The trustees of such academy, when they have given such consent, should pass a resolution declaring their office as trustees vacant. A certificate to the effect that such resolution was adopted should be signed by the officers of the board of trustees of such academy and filed in the office of the clerk of the county in which such academy is located. After these various steps have been taken such academy becomes the academic department of such union free school.

Board May Lease an Academy.—Whenever a board is directed to do so by the voters of a district it may *lease* an

academy and site in such district and conduct the academic department of the school district in such building.

Expenses of Representatives of Boards of Education to Attend Educational Meetings is Not a Proper Public Charge.—In July, 1899, the clerk and two members of the Board of Education of the city of Syracuse attended the annual meeting of the National Educational Association at Los Angeles, Cal. These representatives attended under direction from the board of education. Their legitimate expenses in attending this meeting were audited by the board of education. An action was brought by a tax-payer of the city of Syracuse to restrain the board of education from paying these expenses. The supreme court held that such expenses were not a proper public charge. An appeal was taken from the action of the court to the appellate division. This court for the fourth department affirmed the action of the supreme court. There is no doubt but that the ruling of the court in this matter applies to the powers of each board of education in the State. (52 App. Div. 579.)

Issue Certificate of Indebtedness.—When taxes have been levied by a district, but not collected, the board of education of a district may borrow money to an amount not to exceed the amount of such uncollected taxes for the purposes of meeting the expenses of the current fiscal year. This money may be borrowed by issuing certificates of indebtedness which must be signed by the president and clerk of the board. Such certificates must be payable within the current fiscal year or within nine months thereafter. They shall bear a rate of interest not to exceed six per cent.

Night Schools.—A board of education may establish night schools free to all residents of the district or city. A person over twenty-one years of age is therefore entitled to attend a night school when one has been established, without the payment of tuition. They may also prescribe courses of study therein.

Kindergartens.—A board of education may establish kinder-

gartens which shall be free to all resident children of the district between the ages of four and six years.

Medical Inspection.—The board of education of any city or district is authorized to provide for the medical inspection of all children in attendance upon schools under their supervision whenever in their judgment such inspection is necessary. The expense incurred may be paid out of any moneys authorized by the voters of the district or city or set aside by the common council or board of estimate and apportionment for that particular purpose.

Before funds can be voted for this purpose notice that the proposition will be presented to the annual meeting must be given in the notice of such meeting. (See page 287.)

REVIEW QUESTIONS

How are rules for the government of a board of education adopted? What regulations may a board adopt for schools? Explain the relation of a teacher to such regulations.

Who is the proper authority to adopt courses of study for union free schools? Who determines how pupils shall be graded, classified and promoted? In what subject are boards of education required by special provision of law to provide for instruction? What authority has a board of education in determining the text-books to be used in their school? When may a board provide text-books for pupils?

When may a board purchase a site? Erect buildings? Repair buildings? Purchase furniture or apparatus? Hire school-rooms and furnish them? What is the duty of a board in relation to insuring property? How may premiums for such insurance be raised? Who is the custodian of the property owned by a union free-school district? What does such property include? Is such property subject to taxation?

When may a board sell real property of the district? How is title to such property transferred? What disposition must be made of the money thus realized? When may a board exchange real estate? What power has a board relative to holding property in trust?

What general control of schools under its jurisdiction has a board of education? By what authority is the control of a board limited? Who determines the conditions under which non-resident pupils are admitted? What is the law relative to tuition of such pupils in cases where their parents or guardians are taxed for school purposes? By whom are teachers employed? What prohibition is there relative to the teachers that a board may employ? What is the law relative to the contract between teachers and board? What should such contract express? For what causes may a board remove a teacher? What power has a board of education to fill a vacancy on such board? What power has a board to remove any of its members? What is the duty of a board in providing water-closets and in keeping them in proper condition?

What in relation to outside stairways? What general powers of trustees of common-school districts are conferred upon boards of education? What powers of trustees of academies?

When may a board of education appoint a superintendent of schools? How is the population of such district determined? By whom are the duties of such superintendent prescribed? How may he be removed from office? What amount is such district entitled to receive from the State for employing such superintendent?

What records are boards required to keep? Who may inspect such records? State fully what is required of boards relative to publishing receipts and disbursements. What estimates are boards required to present to annual meetings? What action should be taken upon such estimate at a district meeting? What estimates may be reduced? What estimates cannot be reduced? What estimates may be increased? If a district meeting should refuse to vote a tax for teachers' salaries, what action may a board take? What in case of contingent expenses? How may disputes relative to contingent expenses be settled? When should a board of education present an estimate to the corporate authorities of a city or village? For what should such estimate be made? What is the duty of such corporate authorities when such estimate is properly presented to them? What is the duty of such corporate authorities when the district has voted an expenditure for sites or buildings?

What meetings must boards of education hold? How often? Must these meetings be public? What are executive meetings? What provision should a board make for visitation of schools?

Who holds the school funds in a union free-school district whose boundaries coincide with those of an incorporated village or a city? How must the funds of such district be kept? What additional security must such treasurer give? How are the funds of such district disbursed? Who holds the funds of a union free-school district whose boundaries do not coincide with those of an incorporated village or a city? How are such funds disbursed?

What supervision has the Commissioner of Education over union free schools? Over boards of education? What reports are boards of education required to make? When? To whom? Where should each report be filed? What information should it contain?

When may an academy be adopted as the academic department of a union free-school? State fully what steps should be taken in proceedings of this kind. When may a board lease an academy and its site? What is the rule in relation to the payment of expenses of members of boards of education while attending educational conventions? Explain the authority of a board of education to issue certificates of indebtedness. Who may establish night schools? Who is eligible to attend? Who possesses the power to establish kindergartens? When may a board of education authorize the medical inspection of children in attendance upon schools?

CHAPTER XIV

SITES AND SCHOOL BUILDINGS

[Article 16]

SITES

Designation of Site.—A site for a school-house can be determined at a special or annual meeting of the district. A special meeting must be duly called for that purpose. A written resolution in which the proposed site is described by metes and bounds must be adopted by a majority vote of the qualified voters present and voting. The vote upon such resolution must be by ayes and noes. A record of such vote must be made, showing how each person voted upon the proposition.

A district, at a special meeting, may designate two or more sites with the approval of the district superintendent having jurisdiction. The notice of such special meeting must state the proposed number of sites that will be voted upon.

Improvement of Site.—The voters at a school district meeting may vote to improve the site or sites of such district or they may vote to enlarge such site or sites. This action may be taken at a special or an annual meeting.

Tax for Site.—The voters of a school district may vote a tax to purchase, lease, and improve the sites of such district. This tax must be levied and assessed in the same manner as taxes for other school purposes.

Change of Site.—The legal voters of a district may by a majority vote at a special meeting called for that purpose, or may at an annual meeting adopt a written resolution designating a new site and describing it by metes and bounds. The vote on such resolution must be by ballot or by taking and recording the ayes and noes.

Acquisition of Sites.—Where the owners of land will not consent to the sale of such lands for sites for school buildings, such lands may be acquired without their consent under the provisions of the Condemnation Law.

The following property can not be taken by this method without the consent of the owners:

1. A homestead occupied as such by the owner. Except such portion thereof as may appear to the Court to be unnecessary for the reasonable use and enjoyment thereof.

2. A garden, orchard, or any part thereof, not within a city which has existed for a period of one year prior to the beginning of the condemnation proceedings.

3. A yard or inclosure, or any part thereof, necessary to the use or enjoyment of buildings.

4. Fixtures or erections for the purposes of trade or manufacture which have existed for a period of one year prior to the beginning of the condemnation proceedings.

5. The whole of a city or village lot with the erections and improvements thereon.

Sale of Former Site.—Whenever the site of a school-house is changed as provided above, the legal voters of the district at a special or an annual meeting duly convened, may, by a majority vote, direct the sale of the former site and the buildings thereon at such price and terms as they deem proper.

Transfer of Title.—The trustees or a majority of them, when so directed by a district meeting, may execute a deed transferring the interest and title of the district to such estate, and such deed is valid and binding.

Bond and Mortgage or Other Security.—Whenever a district meeting directs that credit may be given to the purchaser of such property for any portion of the amount paid therefor, the trustees have authority to take in their corporate name security by bond and mortgage or otherwise, as they shall deem best. The trustees hold such security as a corporation and should account therefor to their successors in office and to the district in the same manner as they are now required by law to account for moneys received by them. Trustees in their official capacity may sue for and recover the moneys due and unpaid upon any security so taken by them or their predecessors.

Disposition of Proceeds.—The proceeds derived from the sale of such property must be applied on the expense of procuring a new site, of removing or erecting thereon a school-house, and of improving and furnishing the site, the school-house, and their appendages, so far as may be necessary. If a surplus should remain, it should be devoted to the purchase of school apparatus or used for any other support of the school, as the voters at an annual meeting may choose to direct.

Designate Sites Without Vote of District.—In a district containing 5,000 or more inhabitants the board of education may without vote of the district designate a site or sites, or an addition to a site or sites.

SCHOOL BUILDINGS

Location of School-house.—The law provides that no school-house shall be erected so as to stand upon the division line of any two towns.

Repairs of School-house.—It is the duty of the trustees of a district to keep the school-house in proper repair and reasonably comfortable for use, and for that purpose they may expend fifty dollars each year without a vote of the district.

When the sum of fifty dollars is not sufficient to put a school-house in proper repair and the district has not voted to make any expenditure for repairs, the trustees should apply to the district superintendent for an order directing them to make the necessary repairs. A district superintendent has authority to direct that repairs to the extent of two hundred dollars shall be made, when in his judgment he deems it necessary. A district superintendent may issue this order without application from the trustees. When the order is issued it should state the character of the repairs to be made—whether new seats, a new roof, or any other improvement. As a trustee may expend only fifty dollars without a vote of the district and as a district superintendent may direct trustees to expend only two hundred dollars, it is advisable, when two hundred and fifty dollars is insufficient

to make the necessary repairs or to put the building in proper condition, for the trustees to call a special meeting of the district for the purpose of voting an expenditure for additional repairs.

There is no limit put upon the amount which a district meeting may vote for repairs. When a district meeting votes an appropriation for repairs, it should direct the nature of such repairs.

It is the duty of trustees to make such repairs as are directed either by a district superintendent in his order or by a district meeting. For a failure to do this, a trustee may be removed from office.

Tax for Erection of School-house.—The qualified voters, at an annual school meeting or at a special meeting called for the purpose, may vote a tax for the erection or repair of a school-house. There is no limit in regard to the amount which a district may vote for this purpose.

When a district refuses to vote an appropriation sufficient to make any necessary repairs to the school-house, the relief of any aggrieved person residing in the district is to bring an appeal to the Commissioner of Education who may order the district to make necessary repairs.

Approval of Plans.—No school-house shall hereafter be erected, repaired, enlarged or remodeled at a cost to exceed \$500 in any school district or in any city of the third class until the plans and specifications for the same have been submitted to the Commissioner of Education and his approval indorsed thereon.

The Commissioner of Education is prohibited from approving plans which do not provide:

a. At least fifteen square feet of floor space and two hundred cubic feet of air space for each pupil to be accommodated in each study or recitation room therein.

b. For assuring at least thirty cubic feet of pure air every minute per pupil, and

c. The facilities for exhausting the foul or vitiated air therein shall be positive and independent of atmospheric changes.

d. All halls, doors, stairways, seats, passage-ways and aisles

and all lighting and heating appliances and apparatus arranged to facilitate egress and afford adequate protection in cases of fire or accident.

e. All exit doors shall open outwardly, and shall, if double doors be used, be fastened with movable bolts operated simultaneously by one handle from the inner face of the door.

f. No staircase shall be constructed with winder steps in lieu of a platform but shall be constructed with straight runs, changes in direction being made by platforms. No door shall open immediately upon a flight of stairs, but a landing at least the width of the door shall be provided between such stairs and such doorway.

Under this law the Commissioner of Education has adopted the following regulations:

The plans and specifications must be submitted in duplicate, the original set to be returned after the indorsement of approval, the duplicate to be retained on file at this Department.

The plans and specifications must show in detail the ventilation, heating and lighting of the building. The contract should include a guaranty that the system of ventilation described will provide at least 30 cubic feet of air every minute for each pupil. It will be necessary to give the size of windows, distance from top of window to ceiling and number of panes in sash.

At least 15 square feet of floor space and 200 cubic feet of air space for each pupil to be accommodated in each study or recitation room must be provided. In this connection it will be necessary not only to state the size of the rooms (length, breadth and height) but also to give the number of individual desks to be placed in the room.

The plans and specifications must clearly show that proper provision is made in all respects "to facilitate egress in cases of fire or accident and to afford requisite and proper accommodations for public protection in such cases."

The windows in all study rooms and recitation rooms should be so arranged that the main light will come from the pupils'

left and the supplemental light from the rear. The windows should be grouped together as nearly as possible on the pupils' left so that the light may be massed, thereby furnishing a comparatively even distribution of light and minimizing areas of light and shadow.

The windows should extend as near to the ceiling as the principles of construction will admit and should be without transoms or unnecessary frame work.

Any considerable area on the side to the left of the pupils that is without window surface should be opposite the space in front or in the rear of the pupils' desks.

The ratio of window surface to floor surface should be one to five. If the main light comes from the north or from a side of the building which is well shaded, the ratio should be one to four.

As far as possible the rooms and windows should be so arranged that the aisles may run the long way of the room.

In the primary grades the blackboards should be placed 26 inches from the floor, in the intermediate grades 30 inches and in the grammar grades 36 inches. Each blackboard should be provided with a trough at the bottom, which should have an open woven wire cover on hinges.

Special cloakrooms should be provided which should be thoroughly heated and ventilated.

A soft color should be used in finishing the walls—a light greenish gray. The ceiling should be white. The window shades should correspond in color with the walls.

Payments by Installments.—When a school district has voted a tax for the erection of a school-house, it may by a majority vote at any meeting regularly convened, decide to raise the amount thus voted, by installments. The vote on the question must be by ballot or by taking and recording the ayes and noes. When such action is taken by a district, it is the duty of the trustees to raise by tax such installments and the interest thereon, as they become due, in the same manner as other school taxes

are raised. The last installment cannot be extended beyond twenty years from the date on which the vote was taken in a common-school district, but there is no limit in this respect in a union free-school district. No tax voted by a district meeting or other competent authority in any such city, or school district exceeding the sum of five hundred dollars, shall be levied by the trustees until the Commissioner of Education shall certify that the plans and specifications for the same comply with the provisions of this law.

Notice of Tax Proposed for School Buildings.—No vote to raise money by tax to purchase a new site or to change or add to the present site, or to build a new school-house, can be taken at a district meeting unless notice that such proposition will be presented, specifying amount, has been given by the board of education in the same manner as the notice of an annual meeting is given.

Vote on Expenditure of Money.—On all propositions arising at such meetings involving an expenditure of money or authorizing a tax levy, the vote must be by ballot or by taking and recording the ayes and noes.

Rescinding Vote or Reducing Amount.—No vote requiring money to be raised can be rescinded nor can the amount voted to be raised be reduced at a subsequent meeting, unless it is an adjourned meeting or a meeting called for such purpose. If it is a meeting called for such purpose, notice must be given in the manner in which all notices for annual and special meetings are given. The notices must state that the proposed reduction or the proposition to rescind the vote authorizing such money to be raised will be voted upon.

May Borrow Money and Issue Bonds.—Whenever an annual or a special meeting of a union free-school district votes a tax to be collected in installments for the purpose of building a new school-house or for repairing or enlarging the school-house of the district or for the purchase of a new site or an addition to the present site, the trustees or boards of education are author-

ized by law to borrow the money necessary at a rate not to exceed six per cent., and to issue bonds or other evidences of indebtedness therefor. The bonds shall be paid at maturity and shall not be sold below par.

Sale of Such Bonds.*—In a union free-school district whose boundaries *do not* coincide with those of an incorporated village or a city, the board of education of such district shall give notice of the time and place of the sale of such bonds, at least ten days prior to the date of such sale. This notice may be given by being published twice in each of two newspapers of the district, if there are two, and in one paper, if there is but one. If no newspaper is published in the district, then a notice of such sale must be posted in ten of the most conspicuous places of the district, at least ten days previous to the sale. The trustees having charge of the issue or payment of such bonds, are required to make an annual report thereof to the clerk of the board of supervisors of the county in which the district is located, on or before the first day of November.

In a union free-school district whose limits *do coincide* with those of an incorporated village or a city, such bonds must be prepared by the board of education and signed by the president and the secretary of such board and delivered to the treasurer of such incorporated village or city and countersigned by him. The treasurer of such village or city shall give notice of the time and place of the sale of such bonds in the same manner as it is required that boards of education of districts whose limits *do not* coincide with those of an incorporated village or a city shall give such notice. The proceeds of the sale of these bonds must be paid into the treasury of such incorporated village or city to the credit of the board of education of such district.

Sale of Liquors Prohibited Near School-Houses.—Traffic in liquor is prohibited in a building, yard, booth, or other place which shall be on the same avenue or street and within 200 feet of a building used exclusively as a school-house. The measurements must be taken in a straight line from the center

*For procedure relative to legalization of bond issues, see Article 2-A of Municipal Corporations Law.

of the nearest entrance to the building used for such school to the center of the nearest entrance to the place in which such liquor traffic is desired to be carried on. This prohibition however does not apply to a place which on the 23d day of March, 1896, was lawfully occupied as a hotel, or in which the traffic in liquors was lawfully carried on or which was in process of construction. (Subdivision 2, section 23, Liquor Tax Law.)

CONDEMNATION OF SCHOOL-HOUSE

Order.—When in the judgment of a district superintendent the school-house of any district under his jurisdiction is wholly unfit for use and not worth repairing, he may issue an order condemning such property and he should fix a time therein when such order shall go into effect. The superintendent should also direct in such order the expenditure of an amount which in his judgment is necessary to erect a school-house for the accommodation of the children of such district.

Service of Order.—The superintendent must immediately serve such order upon the trustees of the district and transmit a copy thereof to the Commissioner of Education.

Trustees Should Call Special Meeting.—Immediately upon being served with a copy of such order, the trustees should call a special meeting of the district for the purpose of considering the question of building a school-house.

The legal voters at such special meeting have power to determine the size of the building and the material to be used, and to vote a tax to build the same. The district meeting may also decrease the estimated amount of the superintendent for the erection of such building twenty-five per cent., and the district may also increase the amount estimated by the superintendent.

Failure of District to Vote Tax.—When a district fails to vote a tax to build a school-house, within thirty days from the date on which the first meeting for considering the question was held, the trustees have power, and it is their duty to contract for the erection of such building and to levy a tax to pay for the

same. This tax shall not exceed the estimate of the superintendent and shall not be more than twenty-five per cent. less than such estimate.

Insurance of Buildings.—The trustees of a school district should insure the buildings of the district. Their duty in this matter is explained in the chapter on Trustees; powers and duties. It is also the duty of boards of education to insure the buildings of union free-school districts. (See chapter on Boards of Education; powers and duties.)

Use of School Buildings.—1. The use of a school building in a district or city must be granted for holding any examination or institute appointed therein by the Commissioner of Education. No charge can be made for the use of such building for these purposes but a reasonable allowance may be paid for lighting, heating and janitor service.

2. When a building is not in use for such school purposes it may be used on approval by the board of trustees by persons desiring to give or receive instruction in any branch of education or learning or in the science and practice of music. (See also chapter 10, powers and duties of trustees.)

3. The most comprehensive law enacted in any State in relation to the use of schools, grounds and buildings was enacted by the Legislature of New York in 1913.

This law confers upon local school authorities the power to employ persons to supervise and conduct athletic, playground and social center activities when authorized by a district meeting. Regularly employed teachers may be paid additional compensation for services rendered in supervising and conducting these activities.

This law further provides for the use of school houses and grounds outside of school hours. Under this provisions of the law school grounds and buildings may be used for social, civic and recreational meetings and entertainments and other uses pertaining to the welfare of the community in general. These meetings must be open to the public, and no fee may

be charged unless the proceeds are to be used for an educational or charitable purpose.

It should be understood that under this provision of the law, school property is not open to the use of a religious denomination, a fraternal, secret or other exclusive society or organization.

A district meeting possesses the power to authorize the use of school buildings for political meetings, and for polling places for primaries and general elections.

Sale of Buildings.—When a school district decides to build a new school-house, the district meeting should direct what disposition should be made of the old building. This is usually done by directing the trustees to sell it at public auction. The district meeting may, however, direct some other course to be pursued.

The school buildings may be sold when a district has been dissolved. (See chapter on School Districts.)

The school buildings of a district may also be sold when the site of the district buildings has been changed.

Stairways Outside of Buildings.—It is the duty of trustees or boards of education of all school districts outside of the city of New York to provide stairways on the outside of all school buildings that are more than two stories high, with suitable doors connecting therewith from each story above the first. These may be built without a vote of the district, at a reasonable expense, which is chargeable to the district the same as other taxes. Such stairways shall be kept in good order and free from obstruction and should not be bolted or locked during school hours.

Out-buildings.—It is the duty of school districts to provide out-buildings on the school premises. The law provides that these buildings shall be as follows:

1. They must be suitable and convenient.
2. There must be two, and they must be entirely separated from each other. These two closets may be under one roof and over the same vault.

3. They must have separate means of access, and the approaches thereto must be separated by a substantial close fence, at least seven feet high.

4. They must be kept in a clean and wholesome condition.

A failure on the part of trustees to comply with these provisions is sufficient reason for removing them from office, and for withholding from the district its share of public money from the State. Trustees are personally responsible to the district for any loss in this respect through their negligence.

Any expense incurred by the trustees of a common-school district in providing and maintaining these out-buildings when approved by the district superintendent may be raised by tax without vote of the district.

A board of education may meet such expenses by payment from contingent fund or by tax upon the district or city without authorization by the voters thereof.

REVIEW QUESTIONS

What meeting can decide upon a site for a school-house? How must such decision be determined? What must the resolution contain? How must the vote be taken? What record must be made? When may a district designate more than one site? What must the notice of a special meeting state? How can the site of a school district be improved or enlarged? At what meetings? What tax may a district vote in relation to sites? Is there a limit to the amount that can be voted? How is such tax levied and assessed? How may the school site of a district be changed? What property can not be taken for a site? What disposition is made of the old site and buildings of a district when a change of site has been legally made? How may the title of the district of such property be transferred? When may bond and mortgage be given to protect districts? How is such security held for the district? How may the unpaid money due the district be collected? What disposition must be made of the proceeds of the sale of such property? When may a board designate a site without vote of the district?

What prohibition is there in relation to the location of a school-house? Whose duty is it to keep the school-house in reasonable repair? How much may such officer expend therefor without a vote of the district? Can the district vote a larger amount? If fifty dollars is insufficient and the district has not voted an appropriation, how may the trustee obtain authority for making the needed repairs? What amount may a district superintendent order a trustee to expend? How does a district

superintendent give authority to his order? In what particulars should this order be specific? Is there a limit to the amount a district may vote for repairs? When a district superintendent has ordered repairs to school buildings or a district has voted repairs, what is the duty of the trustee? What is the penalty for a failure to do this? What amount may a district vote for erecting a school-house? What limit is there to the amount of tax which a district can levy for this purpose? What action is necessary in order to levy a larger amount? What plans of school buildings must be approved? By whom? State the prohibitions as to approval of plans.

When may a district erect a school-house and pay therefor by installments? How must the vote be taken? How must a tax for such installments be raised? For what period may the payment for the last installment be made? How may a vote authorizing such tax be repealed? By what method may bonds be issued for this purpose? What limit is placed upon the rate of these bonds? What restriction is placed upon the sale of these bonds? What notice of the sale of such bonds must be given? What report of payment, etc., must be made by the trustees? To whom? When?

When may a district superintendent condemn a school building? How? What estimate in regard to the expenditure in erecting a school-house should the order of the district superintendent contain? Upon whom must the district superintendent serve such notice? What is the duty of trustees when served with such notice? What power has a meeting in relation to such matters when regularly called? May the district decrease the estimate of the district superintendent? By what amount? May the amount be increased? How much? Within what period should a district vote to build? What is the duty of the trustee if the district takes no action within that time? What tax in this case may a trustee levy without a vote of the district? What are the duties of trustees of common-school districts in relation to insuring school buildings? What of boards of education of union free-school districts? Name three cases in which school buildings may be sold. What is the method of procedure in each case?

For what purposes other than school may school buildings be used?

What is the duty of school officers in relation to building stairways on the outside of school buildings? What are the requirements for out-buildings in school districts? When a district fails to vote an appropriation for the purpose of making proper repairs, what amount may the trustee expend? What is the penalty for a failure on the part of the trustee to comply with the law? What is the loss to the district? The responsibility of the trustee to the district? When a district has no out-buildings, what amount may the trustees expend for their erection? Upon whose order?

CHAPTER XV.

ASSESSMENT AND COLLECTION OF DISTRICT TAXES

[Article 15]

Assessment of Taxes by Trustees.—It is the duty of the trustees to assess on the taxable property of the district all taxes voted by a district meeting for the current school year and to make out a tax-list immediately therefor. A tax voted for the ensuing school year should be assessed and the tax-list therefor issued within thirty days after August first following. The courts of the State have held, however, that the law in this respect is only directory and that trustees may issue a tax-list and warrant after the expiration of thirty days from the date the tax was voted.

In assessing a tax voted by the district, trustees may also assess at the same time a tax which they are authorized to assess without a vote of the district and may include two or more taxes in one tax-list.

A tax-list is not complete until it has passed from the trustees to the officer whose duty it is to collect it, and any time before its completion it may be altered and amended by the trustees.

Chapter 502, Laws of 1902, provides that any town in St. Lawrence county may adopt a uniform system of taxation for school purposes at a biennial town meeting. The details of the law may be found by consulting the session laws of 1902.

Heading on Tax-List.—The law directs that trustees shall prefix to each tax-list a heading showing the purpose for which the different items of the tax are raised. Any tax-list not containing this heading will upon appeal be set aside by the Commissioner of Education. The details of each item need not be set forth. If an item is for repairs, it is sufficient to state, "For repairs on school-house, \$25.00," and it is not necessary to give each item included in such repairs.

Form of Tax-List.—In making out a tax-list trustees should rule six separate columns and give in such columns the following data:

1. The first column should contain the names of all the persons and corporations liable to taxation in the district.
 2. The second column should show the number of acres of land to be taxed to each person or corporation.
 3. The third column should give the assessed valuation of such land.
 4. The fourth column should give the full value of all the taxable personal property of each of the persons or corporations named in the first column.
 5. Value of special franchise.
 6. Valuation of taxable rents reserved.
 7. The amount of each individual's or corporation's tax.
- (See sections 21-30, Tax Law.)

Trustees cannot place upon a tax-list the uncollected taxes of some former tax-list. They can not increase the assessment upon the property of a tax-list to make up a loss caused by a failure to assess property upon a former list. If property is omitted from a tax-list and the mistake is not discovered until the taxes are collected and the warrant is returned, it is too late to remedy the mistake.

Apportionment of Taxes Upon Real Estate.—Trustees must apportion district taxes upon all real estate within the boundaries of the district, except that which is exempt by law from taxation. Such property must be assessed to the person or corporation owning or possessing it at the time the tax-list is made out.

Real Estate Lying in One Body but in Two or More Districts.—Lands lying in one body but located in two or more school districts, and occupied by the same person either as owner or as agent for the same principal or tenant under the same landlord, if assessed as one lot by the town assessors, are taxable in the district in which the occupant of such lands resides.

In cases of this kind there are three distinct questions to settle in order to determine where such lands are taxable. These are:

First. The land must lie in one body. It is not sufficient that such lands shall be joined by a mere *point*. There must be an actual *line* of contact.

Second. The ownership of such lands must be by one person. If there is a joint ownership of such lands, they can not be assessed under this provision.

Third. The occupancy of such lands must be determined. The whole body of such land must be occupied by one person. This person must be either the owner of such lands or the agent or tenant of one and the same landlord.

All lands of this description which do not comply with the three provisions above given, must be assessed for their respective portions in the district in which such parts are located.

Non-Resident Real Estate.—Non-resident real estate is real estate which is not occupied and improved by the owner or by his servant or agent, and which is not possessed by a tenant. Briefly, it is unimproved and unoccupied land. This land must be assessed by trustees as town assessors assess such lands in towns. It must be placed upon a separate part of the tax-list, and the name of the owner must not be mentioned, unless such land is owned by an incorporated company, in which case the law directs that the name of such company must be given. The description of such land must be accurate and such as would enable a purchaser to locate it, and would enable the owner to know that it was his land that was thus described.

A collector can not levy upon and sell the personal property of the owner of non-resident land.

But if the owner of real estate in any school district improves and occupies such land himself, or causes it to be improved or occupied by an agent or servant, such owner, in regard to the liability of such property to taxation, is considered a taxable inhabitant of such district. In this case a collector could seize

and sell the personal property of the owner of such estate for the amount of school taxes.

If such real estate is occupied by tenants or sub-tenants they are the proper persons to whom such property should be assessed, and not the owner thereof. If such tenants improve the land, although they do not reside on it, they are considered under the law taxable inhabitants of such district.

Assessment of Bank Stock.—A board of trustees in a school district should include in its tax-list real property owned by a bank or banking association organized under the laws of the State or of the United States and located in such district. However, the stock of such bank and the bank's personal property should not be included in such tax list. Bank stock and the personal property of a bank is assessed by the board of supervisors for all State, county, city, village, town and school district purposes. A bank is required to pay a tax of one per cent. on the value of its stock to the county treasurer of the county in which the bank is located. No deduction can be made on the value of this stock because of the personal indebtedness of the owners of such stock. The tax must be paid on or before the thirty-first day of December annually. It is immaterial where the holder of bank stock may reside. Such stock is assessable in the tax district in which the bank is located. The value of a share of bank stock is determined by adding together the amount of the capital stock, the surplus and the undivided profits and dividing this sum by the number of shares of such bank.

The clerk of a school district in which a bank is located is required to file with the board of supervisors during the first week of the annual session of such board a written statement under oath showing the tax rate of the district for the preceding year. A similar statement as to the tax rate of each city, village, town or other tax district in which a bank is located must also be filed. The amount of tax on such bank stock due a school district is such proportion of the tax as the

tax rate of such school district bears to the aggregate tax rates of all the tax districts in which such shares of stock are taxable. The county treasurer should pay to each school district its proportionate share of such tax after deducting therefrom a fee of one per cent. for collection. (Articles 1 and 2, Tax Law.)

Apportionment of Taxes on Personal Property.—Trustees must apportion district taxes upon all persons residing in the district and upon all corporations, for all personal property owned by them and liable to taxation in such district.

Property Exempt from Taxation.—Under the tax law the following property is exempt from taxation and can not be assessed for school purposes.

1. Property of the United States.
2. Property of the State of New York except wild or forest lands in the forest preserve or other property which special acts make assessable in certain school districts.
3. Property of a municipal corporation held for public use and situated within the corporation, including real property held or used for cemetery purposes.
4. Property exempt by law from execution other than an exempt homestead. The tax law specifically provides that real property purchased with the proceeds of a pension shall be assessable for school purposes.
5. The real and personal property of a corporation or association organized exclusively for the moral or mental improvement of men or women or for religious, charitable, benevolent, missionary, hospital, educational or cemetery purposes, or for the enforcement of laws relating to children or animals. Such property is not so exempt if any officer or employee of the corporation receives any pecuniary profit from its operations other than reasonable compensation for services.
6. Real property not exceeding in value \$15,000 of an incorporated association of volunteer firemen when such property is used exclusively by such association.

7. The real property of an agricultural association permanently used by it for exhibition grounds.

8. The dwelling houses and lots of religious corporations while actually used by the officiating clergymen thereof. The total amount of such exemption of any one religious corporation shall not exceed \$2,000.

9. The real and personal property of a minister of the gospel or a priest who is regularly engaged in performing his duties as such, or who is permanently disabled by impaired health from the performance of such duty, or who is 70 years of age, to an extent not to exceed \$1,500.

Valuation of Property.—Trustees, in making out a tax-list, must ascertain the valuation of taxable property so far as possible, from the last assessment-roll of the town after such roll has been revised by the assessors.

Reduction of Valuation.—The valuation of any property shall not be reduced from that given in the town assessment-roll, unless the persons claiming such reduction file a written notice of such claim with the trustees before the tax-list is completed. When such claim is duly filed and it appears that the property in question has diminished in value since the last assessment-roll of the town was made, or it appears that an error has been made by the town assessors, it is the duty of the trustees to ascertain the true value of such property. The law provides that they shall give notice to the interested parties and proceed in the same manner as town assessors. If, in the judgment of the trustees, such claim is valid, they should reduce the valuation of the property and make out their tax-list. Such tax-list should be left with one of the trustees or at some place where interested persons can inspect it for at least twenty days from the date on which the notice of the completion of such tax-list is given. The notice of the completion of such tax-list and of the original assessment must be posted in at least three public places in the district. When the valuation of property is reduced the *interested parties* are all the tax-payers of the district.

Assessment of Property by Trustees.—When any taxable property of the district is not included in the assessment-roll of the town, it is the duty of trustees to place such property on the tax-list of the district and give it a valuation, or if any property shall have increased in valuation since the last assessment-roll of the town was revised, it is the duty of trustees to give such property an increased valuation. In either of these cases, trustees should serve a notice of their action on the person so assessed; it is not necessary to post notices in the district.

Equalization of Valuations by Supervisors.—When the trustees of a district which embraces parts of two or more towns request the supervisors of such towns to meet to determine whether the assessments of property in these towns are equitable when compared with each other, or when three or more persons liable to pay tax on real estate make such request, it is the duty of the supervisors to comply with such request. This request to supervisors should be written, and the meeting of the supervisors should be not less than five nor more than ten days from the service of such notice. The notice should name the time and should designate some place within the bounds of the towns in which the districts are located.

If the supervisors find that such assessments of property are not equitable, they should determine the relative proportion of taxes that should be assessed upon the property of the parts of such district lying in different towns. Thereafter, trustees should assess taxes in accordance with such determination until new assessment-rolls of the towns are perfected and filed.

When the supervisors are unable to agree, they may summon the supervisor of an adjoining town and the finding of a majority of them shall be the determination of the question.

Apportionment of Valuation of Railroad, Telegraph, Telephone and Pipe Line Companies Between School Districts.—It is the duty of the assessors of a town in which a railroad, telegraph, telephone or pipe line company is located to apportion the value thereof between the several school districts through

which it extends. This apportionment must be made within 15 days after the final completion of the roll and must be signed by the assessors or a majority of them. It must be filed within five days thereafter with the clerk of the town. The valuation so fixed thereupon becomes the valuation on such property in such school districts. It is the duty of the town clerk to furnish the trustees of the districts interested a certified statement of the valuations apportioned. If the assessors refuse to make such apportionment, the supervisor of the town must make it either upon the request of the trustee of a district or of the corporation assessed. (Article 2, Tax Law.)

A Person Working Land on Shares.—A tenant working land and paying a share of the produce as rent is liable to taxation for school purposes on such land. In all cases of doubt it is safer to assess taxes to the owner of land than to the tenant.

A Person in Possession Under Contract.—Any person in possession of real property under contract for the purchase thereof is liable to taxation for school purposes in the district in which such property is located.

Tenant's Tax Chargeable to Landlord.—A person who is tenant at will or for three years or a shorter period of time, and who pays a tax upon the real estate of which he is in possession, for the purpose of purchasing a site for a school-house, or for purchasing, building, or repairing a school-house, or for supplying the necessary fuel and appendages, may require the owner of such real estate to refund the amount paid for such taxes. The owner of such real estate could not be compelled to pay such tax if he had made an agreement with the tenant that such tenant should pay the tax. The only school taxes chargeable to the owner of such real estate are those for the purposes above named.

Exempt from Taxation for Building a School-house.—Any taxable inhabitant of a district shall be exempt from taxation for the purpose of building a school-house in the district in which he resides, under the following conditions: Such inhabi-

tant must have been set off from some other district *without his consent*, within four years previous to the assessment of such tax and such inhabitant must have paid within that period in the district from which he was set off a tax for building a school-house in such other district. A voluntary contribution toward building a school-house is not a tax. If such inhabitant was set off from a district *with his consent*, he is not exempt from the taxation in question.

Warrant for Collection of Taxes.—The warrant for the collection of a district tax should be issued by the trustees and signed by them or a majority of them. A warrant may be signed with or without seals. It is the official document which gives the collector authority to collect all taxes included in the tax-list. The warrant confers upon a school-district collector the same powers that are conferred upon town collectors by the warrant of the board of supervisors.

Delivery of Warrant.—A warrant for the collection of any tax voted by the district must not be delivered to the collector until the thirty-first day after the tax is voted.

A warrant for the collection of a tax which trustees are authorized to raise without a vote of the district may be delivered to the collector whenever it is completed.

Trustees should take a written receipt from a collector for every tax-list and warrant delivered to such collector. Such receipt should show the date on which the warrant is returnable and the amount to be collected.

Notice of Receiving Taxes.—As soon as the collector receives a warrant for the collection of taxes, he should post notices in at least three public places in the district—one of these notices must be on the outside of the front door of the school-house—stating that such warrant has been received by him and that during the ensuing thirty days from the date of such notices he will receive all taxes voluntarily paid to him.

If there is any assessment on the tax-list against a railroad company or against any canal or pipe line company, the collector

must notify such company either personally or by mail at least twenty days before the expiration of the thirty days above mentioned. If a collector fails to give such notice, he will be entitled to receive only one per cent. fees for the collection of such taxes. This notice may be filed, in the case of a railroad, with the ticket agent of such railroad nearest the district in which such tax is assessed, and in the case of a canal or pipe-line company, with the president, secretary, or general division superintendent or manager of such company.

If the tax of any non-resident is more than one dollar, the collector should give like notice to such non-resident, if his post-office address is known to the collector or if the collector can ascertain what such address is from the trustees or the clerk of the district.

Notice of Assessment and Tax to Railroad Company.—A collector within five days after receiving a tax or assessment-roll should deliver to the county treasurer a statement showing the name of every railroad company appearing on such roll, the assessment of real and personal property against such company and the amount of tax. The county treasurer should then notify the ticket agent of any such railroad company at the station nearest to the office of such treasurer of the receipt of such statement and the amount of tax to be paid by such company.

Railroad Company May Pay Tax to County Treasurer.—A railroad company may pay its school tax, within thirty days after receiving notice that such tax has been levied, to the treasurer of the county but must add a fee of one per centum to the amount of such tax. A railroad company may pay its tax direct to the collector of a district.

Railroad Company's Failure to Pay Tax Within Thirty Days.—If a railroad company fails to pay its tax within thirty days, the county treasurer should notify the collector of the school district. It is then the duty of the collector to proceed to collect such tax with five per centum thereto. A collector

can not legally proceed to the collection of such tax previous to the receipt of such notice from the county treasurer.

County Treasurer Must Pay Funds to the Collector.—The county treasurer should pay any tax paid to him by a railroad company to the collector of the district by which such tax was levied, together with the one per cent fee collected on such tax.

Renewals of Warrants.—If any of the taxes on a tax-list are not paid previous to the expiration of the trustees' warrant, the trustees may renew such warrant and allow the collector additional time to collect such unpaid taxes. This renewal should be indorsed upon or attached to the original warrant and should state the period of time for which it is issued. A warrant may be renewed more than once, but the approval of the supervisor of the town in which the district is located is necessary. Where such approval is not obtained, a warrant can be renewed only once.

Amendment or Correction of Tax-List.—Whenever the trustees discover that an error has been made in the tax-list, such tax-list may be amended or corrected upon application to the Commissioner of Education. The application should state the exact facts relative to such error, the date of the tax-list, and the number of the district and the name of the town in which such district is located.

Filing Tax-List and Warrant.—Within fifteen days after any tax-list and warrant has been returned by a collector to the trustees of a district, such trustees should deliver such tax-list and warrant to the town clerk of the town in which the collector resides.

Trustees May Sue for Tax.—When any tax on a tax-list has not been paid, either by an individual or a corporation, within the time permitted by the warrant or the renewal of a warrant, the trustees may in their name of office sue such individual or corporation for such unpaid taxes.

Trustees May Sue Collector's Bond.—For all forfeitures to which a collector is liable and for all money which he may

neglect or refuse to pay to his successors in office, or the treasurer of the district, the trustees may sue the bond of such collector.

Collector's Return of Unpaid Taxes.—The law provides that collectors shall make a return to the trustees of all unpaid taxes on real estate and upon non-resident stockholders in banking associations organized under the laws of congress. This return must be made at the time the collector returns his warrant to the trustee. A copy of that part of the assessment-roll unpaid must be made by the collector, and he must make an affidavit before some person authorized to administer oaths that the taxes named in such copy are unpaid, and that after diligent efforts he has been unable to collect the same. After a collector has pursued this course, trustees should credit him with the amount of such unpaid taxes, and thus relieve him from the liability resulting from negligence in collecting.

Trustee's Certificate to County Treasurer.—As soon as the trustees of any district receive such return from a collector, they should compare it with the original tax-list, and if they find it to be a true copy, they should attach thereto their certificate showing that they have made such comparison and that they find such return correct. The trustees should then transmit the return of the collector of such unpaid taxes, together with the collector's affidavit and their certificate, to the county treasurer.

Collection of Such Unpaid Taxes.—The county treasurer should present to the board of supervisors of the county the collector's return of such unpaid taxes, the collector's affidavit, and the trustees' certificate of comparison; and such board of supervisors should thereupon assess the amount of such unpaid taxes, with seven per cent. of such sum in addition thereto, upon the very same property upon which the trustees originally assessed the tax. If such taxes are then paid, a return should be made to the county treasurer. If these taxes should not be paid, the county treasurer should render an account thereof to the State

Comptroller, and that officer should sell the land on which such taxes are assessed as the law directs.

Any person against whom such unpaid taxes stand may voluntarily pay such tax, with five per cent. in addition thereto, to the county treasurer, any time before the board of supervisors have directed that such tax be levied.

Payment of Such Unpaid Taxes by County.—The county treasurer, upon receiving the required papers to be filed with him, should pay to the collector of the district in which such taxes were levied the amount of such unpaid taxes from the contingent fund. If there is no contingent fund, the board of supervisors should order a draft to be drawn upon the county treasurer in payment of such amount, which must be paid as all other county charges are paid.

Collector's Receipt.—The tax law requires a school district collector to give a written or printed receipt to each person paying a tax. This receipt must show the date of payment, name of person, description of property, amount of tax, date of delivery of assessment roll. The trustee must supply the collector with a book of receipts in form approved by the State Tax Commissioners. In issuing such receipt the collector must fill in the blank stubs the essential facts called for in the receipt.

Expenditures Without Vote of District.—Trustees may make the following expenditures and include the same in a tax-list without vote of the district:

1. For the erection of out-buildings, an amount approved by the district superintendent.

2. For repairs on out-buildings, an amount approved by the district superintendent.

3. For the construction of a stairway on the outside of the school building, when such building is two or more stories high, a reasonable amount.

4. For repairs on school-house, \$50.

5. For repairs on school-house, when directed by the district superintendent, \$200.

6. For the general running expenses of the district, a reasonable amount.

7. For the salary of teachers, an amount to meet such salary for the current school year.

8. For furniture, \$100, when directed by the district superintendent having jurisdiction, and \$50, without direction by the district superintendent.

9. For the abatement of a nuisance, an amount approved by the order of the district superintendent having jurisdiction.

10. For the erection of a new school-house, when the district superintendent having jurisdiction has issued an order condemning the old building, an amount which the district superintendent states in such order is necessary for the erection of a new building.

11. For school apparatus, \$25.

REVIEW QUESTIONS

Who is charged with the duty of making out a district tax-list? When should a tax-list for a tax voted by the district be made out? What have the courts ruled on this question? How many taxes may a trustee include in one tax-list? When is a tax-list complete? When may a tax-list be altered? Explain the nature of the heading which should be prefixed to a tax-list. Into how many columns should a paper on which a tax-list is made be ruled? State the information which should be given in each column. Have trustees the power to include in a tax-list the uncollected taxes of a former tax-list? Have they the power to assess upon property a tax to meet a loss caused by a failure to assess property on a former tax-list? When can the omission of trustees to assess property be corrected?

Upon what real estate must trustees assess district taxes? To whom should such property be assessed? What is the law relative to assessing real estate lying in one body but in two or more districts? What are the three questions to be determined in these cases? How must such lands be assessed when they do not comply with these provisions? What is non-resident land? How should such land be assessed? State fully how it should be placed upon the tax-list. How should it be described? Can a collector legally sell the personal property of the owner of non-resident land for a tax on such land? When a non-resident owns real estate in a school district and when he improves such property himself or causes it to be improved by an agent, what is his liability for taxes? When such property is occupied by tenants or sub-tenants, to whom should it be assessed?

What personal property should be assessed by trustees for district taxes? How is the valuation of property ascertained by trustees? Have trustees the power to reduce the valuation of property? What must a person do who desires the valuation of his property reduced? What is the duty of trustees when such claim is filed. If the trustees at any time change the valuation of property, what should they then do?

What notice of completion of tax-list must be given? When the valuation of property is reduced who are *interested parties*? What is the duty of trustees in relation to real property of the district not found on the town assessment-roll? What is their duty in relation to property that has increased in value since the last town assessment-roll was revised? What is their duty in relation to personal property not on the town assessment-roll? What notice should be given in any of these three cases when property is assessed by trustees?

Who determines whether the property of a district located in two or more towns is equitably assessed? When are supervisors required to act in this capacity? If such supervisors agree that such property is not equitably assessed, what is their duty? What should be done if they are unable to agree?

When is a tenant liable for taxes on land? In cases of doubt, to whom should such land be assessed? Who is liable to taxation for real property which is in the possession of a person under a contract of purchase? Under what conditions and for what taxes may a tenant require his landlord to refund the amount of taxes paid by such tenant? Under what conditions is a taxable inhabitant of a district exempt from taxation for building a school-house?

What is a trustees' warrant? How is it issued? What authority does it give a collector? When may a warrant for a tax voted by the district be legally delivered to the collector? When may a warrant for a tax which trustees are authorized to levy without a vote of the district be delivered to the collector? What general notice of a warrant for taxes should a collector give? Where should such notices be posted? What special notice should be given to a railroad company or a canal or pipe-line company? How should such notice be given? How would a failure to give such notice affect the collector? What special notice should be given to non-residents? What notice should be given to the county treasurer? Explain the two ways in which a railroad company may pay its tax. How should such notice be given? May a warrant be renewed? By whom? In what manner? May a warrant be renewed more than once? In what manner?

When may a tax-list be amended or corrected? By whom? What should the application for this purpose show? May trustees sue for a tax? When? For what causes may trustees sue a collector's bond? What should trustees do with a tax-list and warrant returned by a collector?

To whom should a collector make a return of unpaid taxes? When should such return be made? How should it be made? What effect does such return have upon the liability of the collector? Upon receiving such return, what action should trustees take? What should the county treasurer do to place the matter properly before the board of

supervisors? What action should be taken by the board of supervisors? If these taxes are then paid what should be done with the amount paid? If these taxes are not paid, what action should be taken by the county treasurer? What should the comptroller then do? How may this amount be collected? When may it be voluntarily paid? From what fund should the county treasurer pay such tax? To whom? If there is no such fund how is such tax paid?

What expenditures may a trustee make without vote of the district?

CHAPTER XVI

STATE SCHOOL MONEYS

[Article 18]

Different Funds.—There are three sources from which money has been derived by the State for the support of the public school system. These sources are the common-school fund, the United States deposit fund, and the free-school fund. These funds, together with the literature fund, are known under the Finance Law as the Education Fund.

The Common-School Fund.—Upon the recommendation in a special message of Governor Morgan Lewis to the State legislature in 1805, an act was passed which created this fund. It provided that “The net proceeds of five hundred thousand acres of the vacant and unappropriated lands of the people of this State, which shall be first sold by the Surveyor-General, shall be and are hereby appropriated as a permanent fund for the support of common schools.” The act also provided that no distribution should be made until the annual revenues of the fund amounted to fifty thousand dollars. This revenue was not realized until 1815, when the first distribution was made. This fund was apportioned among the counties of the State on the basis of population, and each county was required to raise by taxation an amount equal to the amount received from the State. The revenue derived from these two sources constituted the State school moneys for the payment of teachers’ salaries. When this amount was insufficient to pay the salaries of teachers, the balance was raised by rate bills. In 1805, when this fund was originated, its capital was nearly fifty-nine thousand dollars; but in 1910, it had increased to over four million

seven hundred seventy-three thousand dollars. Out of the revenue of this fund the legislature annually appropriates for common schools one hundred and seventy thousand dollars.

The United States Deposit Fund.—On June 23, 1836, congress passed an act providing for the distribution of the surplus revenues which were held in the United States treasury at that time for safe-keeping among the various states. Of this distribution New York received about \$4,000,000. It must be understood that this fund was not given or loaned to the State, but was simply placed in its possession for safe-keeping. The United States government could recall this money, but probably it never will. Under a provision of the State constitution, New York is required to keep the amount of this fund equal to the amount which was originally deposited. In 1837, by an act of the State legislature, this fund was distributed among the counties of the State on the basis of population. It was placed in the hands of two loan commissioners in each county, who were appointed by the Governor, to be loaned by them in their county upon bond and mortgage with interest. From the income derived from this fund, there was appropriated by the State legislature in 1838 for the support of common schools, the sum of \$165,000. This sum was annually appropriated by the legislature until 1881, when the appropriation was reduced to \$75,000, owing to a reduction in the revenue. This reduction in revenue was caused by a depreciation in the property on which investments from this fund had been made. Since 1881, the legislature has annually appropriated from the revenues of this fund \$75,000, and this sum becomes a part of the State school moneys and is used for the support of the public schools.

The Free-School Fund.—The amount appropriated annually by the legislature for the support of common schools is discretionary but as the law specifies the amount of a supervision, district and teachers quota the legislature must appropriate an amount sufficient for this purpose or assume the responsibility of changing the basis of apportioning school funds. The first

State tax levied for this purpose was under the authority of an act passed in 1851, providing for the sum of \$800,000. This amount has been gradually increased. The greatest increase was in 1867, the year in which the rate-bills were abolished, when the legislature increased the amount to be raised from a tax of three-fourths of a mill on each dollar of valuation, to one and one-fourth mills on the dollar. It was the intent of the legislature when this increase was made, to supply funds, which, combined with the revenues of the common-school fund and the United States deposit fund, would be sufficient to support common schools in most of the school districts of the State for at least twenty-eight weeks each year.

The amount of money realized from these sources soon proved insufficient, in many cases, to support the schools the required time, and the deficiency has been raised by local taxes upon school districts. During the school year ending July 31, 1909, the entire cost for maintaining and supervising the public school system of the State, including all expenditures for normal schools and other institutions under the supervision of the Commissioner of Education, was \$59,927,868.57; and of this amount \$5,964,569.92 were received from State funds, \$47,918,427.98 were raised by local taxes upon the property of school districts and cities, and \$6,044,870.67 were derived from other sources.

The amount previously raised by direct taxation was known as the free-school fund but since the amount for this purpose has been appropriated from State funds obtained from indirect taxation the legislature has not denominated it the free-school fund but has appropriated this money for the support of common schools.

Gospel and School Lands.—The origin of these lands may be traced back to an act passed by the State legislature, May 10, 1784. This was an act to provide for the settlement of the waste and unappropriated lands of the State. It was intended to include all of such lands located within the boundaries of the State. The act provided that such lands should be divided

into townships of six miles square, as nearly as possible, and that in each of such townships 300 acres of land should be set apart for the use of a minister of the gospel, and 690 acres for the use of a public school or schools. On May 5, 1786, the State legislature passed another act regulating the sale of the unappropriated public lands of the State, and providing that the Surveyor-General should mark out in each township laid out, one lot for the support of the gospel and schools, as nearly as possible in the center of each township, and that such lot should not be sold, but reserved for and applied to promoting the gospel and the public school or schools in such township. Under the provisions of this act, each lot was to contain 640 acres, or as nearly that amount as possible. On February 25, 1789, the legislature passed another act regulating the sale and disposition of lands belonging to the State, and providing that townships should be divided into lots containing 250 acres of land or as nearly that amount as possible, and that one lot should be reserved as nearly in the center of each township as possible, for the support of the gospel, and that another lot should likewise be reserved for the support of schools in such township. Subsequent acts of the State legislature provided that the annual rents and profits derived from these lots set apart for school purposes, should be distributed among the schools in each town employing teachers approved by the proper authority, in proportion to the aggregate attendance of pupils in their respective schools. The sale of the gospel and school lands has been directed by the State legislature, and the proceeds derived therefrom authorized to be used for the benefit of the public schools in the towns in which such lands were located. In 1910 the amount realized from this source and used for school purposes in the State was \$26,614.82. There are about thirty-eight counties in the State which still receive revenue from this fund.

Literature Fund.—The first act creating this fund was passed in 1786. This act provided that unappropriated lands of the State should be sold by the Commissioners of the Land Office,

and the funds used for the promotion of literature in the State. The revenue derived from the sale of lands under several subsequent acts was added to this fund. Revenue derived from arrears of quit rents in 1819, from the sale of land belonging to the canal fund in 1827, and from the United States Deposit Fund in 1836, was also added to this fund.

The income derived from this fund is apportioned from the general fund for educational purposes. The capital of this fund is \$284,201.32.

State School Moneys Defined.—The amount appropriated by the State legislature from the common-school fund and from the United States deposit fund, the literature fund, together with the amount appropriated from the other revenues of the State and formerly known as the Free School fund, constitute the State school moneys. These funds are apportioned as follows:

Supervision Quotas to Cities, Villages and Districts Employing Superintendents.—Every city in the State and every union free-school district in the State having a population of 5,000 or more—which employs a superintendent of schools, is entitled to receive \$800. This money must be used for the support of the public schools of such city or union free-school district. No city or district is entitled to this allowance unless a competent person is employed as superintendent, who shall give his time exclusively to the general supervision of the public schools of such city or district. This appropriation is known as a supervision quota.

Enumeration of Inhabitants.—A union free-school district, claiming a population of 5,000 and employing a superintendent, is not entitled to any allowance in the first instance until an enumeration of the inhabitants of such district has been made which shall show the population thereof to be at least 5,000. The expense of taking such enumeration is a charge upon the district in whose interest it is made, and must be paid upon the certificate of the Commissioner of Education. In a union free-school district whose boundaries are coterminous with the

boundaries of an incorporated village and last federal or State census of such village may be used.

District and Teachers' Quotas.—A district or city, to be entitled to a district quota must have had school taught therein by a duly licensed teacher (or by successive duly licensed teachers) for at least one hundred and eighty days, inclusive of legal holidays, and attendance upon a teachers' institute—which shall not exceed three weeks, and exclusive of Saturdays. It is unlawful to count any Saturday as a part of the one hundred and sixty days of school required, and it is also unlawful to have a school in session on a legal holiday, except general election day, Lincoln's Birthday and Washington's Birthday.*

For every additional duly licensed teacher (or successive duly licensed teacher) employed the required time of one hundred and eighty days, the district, city or orphan asylum shall be entitled to one teacher's quota.

The amount of a *district* quota is as follows: Each district having an assessed valuation of \$20,000 or less, \$200; each

* LEGAL HOLIDAYS.—The following days are legal holidays in this State:

January 1—New Years Day.

February 12—Lincoln's Birthday.

February 22—Washington's Birthday.

May 30—Memorial Day.

July 4—Independence Day.

First Monday in September—Labor Day.

October 12—Columbus Day.

First Tuesday after first Monday in November—General Election.

Last Thursday in November—Thanksgiving Day.

December 25—Christmas Day.

The first Thursday in June in each year, except in those years when the first Thursday in June occurs in the same week with Memorial Day, and in such years the second Thursday in June is known as Anniversary Day, and celebrated in commemoration of the organization of Sunday Schools, and is a holiday in all public schools in the borough of Brooklyn, City of New York.

If a legal holiday occurs on Sunday, the day following is observed and considered in all respects as a legal holiday.

district having an assessed valuation of \$40,000 or less but more than \$20,000, \$175; each district having an assessed valuation of \$60,000 or less but more than \$40,000, \$150; each district having an assessed valuation greater than \$60,000, each orphan asylum having a school conforming to the regulations governing the public schools system and each city of the State, \$125. Each Indian reservation receives a quota of \$150 for each teacher employed therein for a period of thirty-two weeks or more.

The amount of a *teacher's* quota for each city and district is \$100.

The distinction between a district quota and a teacher's quota should be clearly understood. An examination of sec. 491, education law may give a clearer understanding.

Training Class Quota.—A school maintaining a training class under the regulations of the Department is entitled to a quota of \$700. Such school would also be entitled to include in the number of teachers reported to the Department as employed 160 days or more the training class teacher and would be entitled to a teachers' quota of \$100 for such teacher.

Industrial Education Quota.—The amount of the quota to a city or district for maintaining a vocational school, trade school, agriculture school, domestic economy school, etc., is \$500. (See chapter 22 on Industrial Education.)

For each additional teacher employed in such schools a quota of \$200 is apportioned.

Application of State School Funds.—All moneys apportioned to a school district or city by the Commissioner of Education as described in the preceding paragraphs, must be used by such district or city for the payment of the salaries of duly licensed teachers employed in such district or city, or for tuition and transportation of pupils. It is a misdemeanor for school authorities to use this money for any other purpose.

Allowance to Excluded Districts.—When a school district has been excluded from participation in any apportionment by failing to make a report required by law or by failing to comply

with any other provision of law or with any regulation of the Commissioner of Education which he has authority to adopt, he may, in his discretion, when it shall be shown to his satisfaction that such omission was accidental or excusable, allow such district an equitable apportionment. If the apportionment was made by the Commissioner of Education, he may cause an equitable apportionment to be allowed such district to be paid out of the contingent fund; and if the apportionment was made by the district superintendent, he has authority to direct them to apportion such allowance to the district at their next annual apportionment. Such allowance must be in addition to any apportionment to which such district may then be entitled.

May Withhold School Moneys.—The Commissioner of Education may withhold the school money due a district or city for willful violation of a provision of law or a regulation of the Department. He may also withhold one-half the money due a city or district for failure to enforce the compulsory education law.

May Direct Payment of Quota when Teacher was not Qualified.—Where a teacher has been employed who was not duly qualified, the Commissioner of Education may, in his discretion, upon the recommendation of the district superintendent having jurisdiction over the district in which such teacher was employed, direct that the money equitably apportioned to such district shall be paid to such teacher in satisfaction of his or her wages.

May Reclaim Moneys Apportioned.—Whenever money shall have been apportioned to a county, part of county, or school district to which it was not entitled, and when such money shall not have been expended, the Commissioner of Education may reclaim such money or excess by directing that such money shall be paid by any officer in whose hands it may be, into the State Treasury. Such money when reclaimed shall be credited to the free-school fund. If such money shall have been expended so that it shall be impracticable to reclaim it, the Commissioner

of Education shall deduct such amount from the portions of the county or district which received it, in his next annual apportionment.

Supplemental Apportionment.—Whenever a school district or county shall have received by apportionment a less sum than it is entitled to, the Commissioner may make a supplementary apportionment to make up such deficiency, which apportionment shall be payable out of the contingent fund. If this fund is not sufficient for the purpose, the Commissioner shall supply such deficiency in his next annual apportionment.

Certificate of Apportionment.—As soon as possible after the Commissioner of Education has made an annual apportionment, he should file with the county clerk, the county treasurer, the district superintendents, and the city treasurers or chamberlains, of every county and city of the State, a certificate of apportionment for their county or city. When the Commission makes a supplemental apportionment, he should file a certificate of such apportionment with the county clerk, the county treasurer, and the district superintendents of the county in which the school-houses of the district are located.

When School Moneys are Payable.—One-half of the school moneys are payable on or before the first day of March and the remaining part on or before the fifteenth day of May in each year.

Apportionment by District Superintendent.—The district superintendents of each county are required to meet at the county seat of their respective counties on or before the fifteenth day of February in each year, for the purpose of apportioning and dividing the State and other school moneys.

To Set Apart District Quotas.—The district superintendents should first set apart to each school district under their jurisdiction the district quotas apportioned to such districts by the Commissioner of Education. They should also set apart to each school district which did not share in the apportionment of the

previous year, such sum as the Commissioner of Education shall have allowed it.

Unexpended Moneys in Hands of Supervisors.—District superintendents should obtain from the treasurer of the county a report of the unexpended moneys which were in the hands of the supervisors of the various towns in the county on the first Tuesday of February, and which were applicable to the payment of teachers' wages. The amount in each supervisor's hands is charged as a partial payment to his town on the amount due that town for district and teachers' quotas.

Apportionment of Fines Held by County Treasurer.—The district superintendents should also obtain from the county treasurer a report of the amount of money paid to him from fines and penalties or obtained from any other source for the benefit of the schools of any town or for any district in the county. If any such money has been received by the county treasurer for a school district it shall be set aside by the superintendents and credited to such district. If such money has been received for the schools of a town, then it shall be placed to the credit of such town and shall be apportioned to school districts of such town with the other school moneys belonging to the town, and shall be used to pay the salaries of teachers.

Superintendents' Certificate of Apportionment.—After having completed their apportionment, superintendents should make and sign two certificates showing the amount apportioned to each school district and part of a district, also the towns in which the districts are located and the source from which each item was derived. One of these certificates should be immediately filed with the county treasurer and the other with the Commissioner of Education.

Superintendents' Certificate to Supervisors.—The superintendents should immediately after making an apportionment file with each supervisor, in their respective districts, a statement showing the amount apportioned to each town and the portions

which such supervisors should pay to each school district or part of a district.

Filing Certificate of Apportionment.—Upon receipt of the superintendents' certificate of apportionment, supervisors should make a copy thereof for their own use, and each should file the original in the town clerk's office of his town.

Correcting Erroneous Apportionment.—The Commissioner of Education is required to correct any error made by himself or a district superintendent. If a district has not been paid its full share of funds the Commissioner of Education may apportion to such district from the contingent fund any balance to which it is entitled. If a district has been paid too much the Commissioner of Education should deduct from its next apportionment such sum as will properly correct the error made.

Districts Entitled to Share in Apportionment.—No district is entitled to share in the apportionment of school moneys unless the trustees' report for the preceding school year shows that a school was maintained in the district and taught by a qualified teacher for at least 160 days, inclusive of legal holidays, and of attendance upon teachers' institutes—which shall not exceed three weeks.

Payment of School Moneys to Supervisors.—After the supervisor has given the required bond and the county treasurer has received the school money from the State Treasurer, such money is paid by the county treasurer to the supervisors of his county, who disburse it as required by law.

For further information, see chapter on "Supervisors, County Treasurers, etc."

Additional Apportionment to Cities, Academic Departments and Libraries.—To each city, union school district, and non-sectarian academy for each academic department maintained therein, \$100.

To each non-sectarian private academy for approved books, standard pictures and apparatus an amount equal to the amount raised from local sources but not to exceed \$250.

To each city for approved books, standard pictures and apparatus an allowance not to exceed \$18 and two dollars additional for each duly licensed teacher employed therein for the legal term and \$250 for each academic department.

To each union school district maintaining an academic department for approved books, standard pictures and apparatus an allowance equal to the amount raised from local sources but not to exceed \$268 annually and two dollars additional for each teacher employed in the district for the legal term.

To all other school districts for approved books, geographical maps and a globe an allowance not to exceed \$18 annually and two dollars additional for each duly licensed teacher employed in the district for the legal term.

The amount of tuition paid by the State for non-resident tuition in high schools or academic departments is \$20 per year for not less than thirty-two weeks. (See chapter 18.)

The balance appropriated for this purpose is then apportioned to the high schools and the academic departments on the basis of attendance of the pupils therein during the preceding year.

REVIEW QUESTIONS

Name three sources from which the State has derived revenue for the support of the public school system? What is the Education Fund? When was the Common School Fund created? What led to its creation? How was it created? When was the first distribution made? What was the amount of the revenue of this fund at that time? Upon what basis was it apportioned? What were counties required to do to participate in the distribution of this revenue? For what was the money derived from these two sources used? When this amount was insufficient to pay the salary of teachers, how was the balance raised? What was the capital of this fund in 1805? In 1901? What amount does the legislature annually appropriate from this fund for common schools?

When was the United States Deposit Fund created? By what body? How was it created? What amount did New York State receive? Was this fund given or loaned to the State? Could this money be recalled? What provision does the State constitution make in relation to this fund? What disposition was made of this money in 1857? What officers have charge of this money? How are they chosen? What

do they do with this money? In 1858 what amount from the revenue of this fund was appropriated by the State legislature? For what period was this amount appropriated? What amount has been appropriated since 1881? How is the amount appropriated now used? What caused the reduction in the revenue from this fund?

What is the Free School Fund? How is the amount annually appropriated determined? When was this fund created? What amount was appropriated that year? In what year was the increase greatest? Why? What increase was made? What was the evident intent of the legislature when it made this increase? Does the fund do this? How is the deficiency raised? What was the cost of maintaining the school system of the State in the year ending July 31, 1909? How was this money raised? Explain the origin of Gospel and School lands. How was the revenue derived from this source used? What amount was realized in 1910? How many counties now receive revenue from this fund? Trace the origin and purpose of the literature fund? What constitute the *State school moneys*?

Upon what basis is an apportionment made to cities and villages for supervision? For what purposes must this money be used? What is necessary to entitle a city, village or district to an allowance for a superintendent? What is a supervision quota?

When is an enumeration of the inhabitants necessary? How is the expense of an enumeration paid? Under whose certificate? When does the Commissioner of Education make the apportionment? What are district quotas? What are teachers' quotas? Upon what basis are district quotas apportioned? What entitles a district to a district quota? May legal holidays be included as any part of the 160 days that schools are required to be taught in order to entitle a district to a quota? May Saturdays? May a school be lawfully in session on a legal holiday? Name the legal holidays in this State. When is a district entitled to more than one quota? How many quotas may a district receive? On what basis are quotas apportioned to cities? What is the amount of a training class quota?

What is the amount of a quota for a school maintained under the industrial education law? What amount is paid by the State for non-resident tuition in high schools? For what purpose must school moneys apportioned by the Commissioner of Education be used? What is the penalty for using them otherwise?

For what reasons may a school district be excluded from participating in an apportionment? How may an allowance be made in such cases? If the apportionment has been made, how may the allowance be made? When may the Commissioner of Education withhold the money due a district or city? What portion may be withheld from a town? When? What authority has the Commissioner of Education in cases where a district is not entitled to a quota by reason of having employed an

unqualified teacher? How may that which has been wrongly apportioned be reclaimed? What disposition is made of such money when recovered? If such money has been expended and cannot be reclaimed, what should be done? What is done with the money thus deducted?

What is the remedy when a school district has not received its just apportionment? What if this fund is insufficient? With what officers should the Commissioner of Education file a certificate of his annual apportionment? What certificate should he file of supplemental apportionments? When does the law provide that school moneys shall be payable? To whom?

When do district superintendents apportion school money? What moneys should they first set apart? How do district superintendents ascertain the amount of unexpended moneys in the hands of supervisors? What is done with this money? Are these moneys returned by supervisors? How are such cases adjusted? How do superintendents ascertain the amount of fines and penalties? How should records of these matters be kept? How should such moneys be apportioned?

Explain fully how money is apportioned to joint districts. What certificate must the superintendents file with the county treasurer and the Commissioner of Education? What statement should a superintendent file with supervisors of the towns of his district? What should supervisors do with such statements? How may an erroneous apportionment be corrected? What school districts are entitled to share in an apportionment? What districts are not? From whom does the county treasurer obtain the school money? To whom does the county treasurer pay it? What does that officer do with it?

CHAPTER XVII

COURSES OF STUDY, SUBJECTS INCLUDED, ETC.—PHYSIOLOGY AND HYGIENE

[Articles 10 and 11]

Authority to Adopt Courses of Study.—Under the education law the authority to prescribe courses of study for common-school districts is given to the trustees of such districts.

The authority to prescribe courses of study for union free-school districts is given to boards of education of such districts.

Subjects That Must be Included in Such Courses.—There is no direct provision of law naming the subjects that shall constitute courses of study prepared by trustees and boards of education. The only express provision of law requiring that any subject shall be taught is the one requiring that physiology and hygiene with special reference to the effects of stimulants and narcotics shall be taught in all public schools.

The Compulsory Education Law provides that the children who are required by that law to attend upon instruction shall be taught *in English* in the branches of *reading, spelling, writing, arithmetic, English language, and geography*.

The trustee or trustees of each common-school district and the board of education of each union free-school district must include in their courses of study these subjects and in addition thereto the subject of physiology and hygiene as required by law, and such subjects must be taught in all common schools, union free schools, or other public schools created by special act.

Other Subjects May be Included.—Trustees of common-school districts have the authority to include in their course of study other subjects not named in the preceding paragraph. In arranging such courses they should exercise proper discretion. If trustees abuse the power granted them in this respect and

include subjects not practical and not for the best educational interests of the district, an appeal should be taken to the Commissioner of Education, who has the authority to order that such subjects shall not be included in a course of study.

Authority of Teachers.—A teacher has no authority in arranging courses of study and can not direct what studies shall be pursued. This is a matter resting solely with trustees.

In most school districts the task of preparing a course of study is referred by trustees to teachers, and teachers prepare such courses of study under direction from trustees.

Authority of Parents.—Parents cannot direct what subjects shall be included in a course of study or what subjects their children shall pursue. When a child is admitted to any public school such child must pursue the course of study prescribed by the legal authorities of such school.

PHYSIOLOGY AND HYGIENE

[Article 26]

Character of Instruction.—The law provides that the *nature* of alcoholic drinks and other narcotics and *their effects* on the human system shall be taught as thoroughly as other subjects are taught in all schools under State control or supported in whole or in part by the public money of the State. Such instruction must also be given in schools connected with reformatory institutions. This instruction must be given in connection with the various divisions of physiology and hygiene.

Who Shall Receive Instruction.—The pupils in all schools described in the preceding paragraph who are *below* the second year of the high school and *above* the third year of school work, counting from the lowest primary, but not including the kindergarten, or who are in corresponding classes in ungraded schools, *must study* and *must be taught* this subject from suitable text-books. All pupils who come within these provisions must be supplied with suitable text-books.

All pupils in the three lowest primary school years, not including kindergarten, must receive oral instruction.

Period of Instruction.—The ruling of Superintendent Skinner on the subject which is still followed was as follows:

All pupils above the third year or grade, and below the second year of the high school, must study the subject from suitable text-books *for not less than three lessons a week for ten or more weeks, or the equivalent of the same in each year.* This requires *thirty lessons* during the school year, which may be given at any time in the discretion of the local school authorities. Any plan may be adopted which will complete thirty lessons within the school year.

Where there are nine or more years below the high school, the instruction may be omitted above the eighth year and below the high school.

NOTE.—All pupils in the lowest three primary (not kindergarten) school years shall be instructed in this subject *orally for not less than two lessons a week for ten weeks or the equivalent of the same in each year.* This requires *twenty lessons during each school year,* arranged in the discretion of local school authorities.

Text-Books.—All text-books used must be graded to the capacities of fourth year, intermediate, grammar, and high school pupils, or to corresponding classes in ungraded schools. For students below the high-school grade, all text-books must give at least one-fifth their space, and for pupils of the high-school grade, not less than twenty pages, to the “nature and effects of alcoholic drinks and other narcotics.” This subject must be considered in connection with each division of physiology and hygiene. Pages in a separate chapter at the end of a book can not be considered in determining the minimum pages which a book must contain.

A text-book which does not comply with these provisions can not legally be used.

Regents' Examinations.—All Regents' examinations in physiology and hygiene must include a proportionate number of questions on the nature of alcoholic drinks and other narcotics and their effects on the human system.

Instruction in Normal Schools, Institutes, and Training Classes.—All normal schools in the State, teachers' institutes,

and training classes must give proper time and attention to the best methods of teaching this subject.

Duty of Teacher.—It is the duty of every teacher to teach this subject as required by law, and the Commissioner of Education, on satisfactory evidence that any teacher has willfully refused to teach the subject, should revoke the license of such teacher.

No teacher can receive a certificate to teach who does not pass a satisfactory examination in the subject and the best methods of teaching it.

Apportionment of Public Money.—Before any city can receive any of the public money of the State, the superintendent of schools of such city must file an affidavit with the city treasurer or chamberlain, and a copy thereof with the Commissioner of Education, that he has made an investigation into the facts and that to the best of his knowledge and belief all the provisions of this law have been complied with in the schools under his supervision.

A similar affidavit must be made by the president of the board of education of each union free-school district and by the trustees of each common-school district and filed with the district superintendents having jurisdiction before such schools can receive public money from the State.

Duties of School Officers.—The law provides that local school authorities must provide the necessary facilities and a definite time and place for this branch in the regular courses of study. Under this provision of law the Commissioner of Education has ruled that where school patrons are unable or unwilling to buy necessary text-books the local authorities may purchase such books at the expense of the district.

Withholding Public Money.—Where it is established to the satisfaction of the Commissioner of Education, upon appeal, that any city or school district has failed to comply with the provisions of this law, he should withhold the public money of such city or district until it meets the requirements of the law.

Religious Exercises in Schools.—Religious exercises of any character can not lawfully be conducted in any public school. No pupil can lawfully be compelled to remain in school during a religious exercise, nor can a pupil be compelled to take part in any religious exercise. No part of the time prescribed for a public school to be in session can lawfully be devoted to religious exercises of any kind. Reading the Bible or repeating a prayer is a religious exercise. These statements are based upon the uniform rulings and decisions of the State Superintendents of New York State, and the Commissioner of Education.

In many cases all the patrons of a school are willing that religious exercises should be held. In any such case, it has been the policy of the State Department not to interfere in any way with the holding of such exercises.

Where a portion of the patrons of a school desire the observance of religious exercises and pupils assemble in the school-room previous to the regular hour for opening school, and no objection is made by any taxable inhabitant of the district, such exercises may be conducted, provided all pupils are permitted to act their pleasure in regard to attendance thereon, and, provided the exercises are not continued beyond the hour at which the school should regularly convene. Whenever any dissensions would arise from conducting religious exercises on this plan, such exercises should not be held.

REVIEW QUESTIONS

Who have the authority to adopt courses of study for common-school districts? For union free-school districts? Does the law provide what subjects shall be taught in common schools? What *one* subject *must* be taught? What subjects does the compulsory education act provide shall be taught to children who are required to attend upon instruction? What subjects, then, must be included in courses of study? In what schools must such subjects be taught? May other subjects be included? What is the remedy if trustees include subjects unreasonable, impracticable, etc. What authority have teachers in arranging courses of study? What authority have parents? Can parents direct what subjects their children shall pursue in a public school?

In what schools must the subject of physiology and hygiene be taught? What is the provision of law relative to teaching about alcoholic drinks? What pupils must study the subject in graded schools? In ungraded schools? What about kindergarten pupils? What pupils must use text-books? What pupils must receive oral instruction? What period of instruction from text-books must each pupil receive? What is the ruling of the State Department on this question? What is the ruling relative to oral instruction? How must text-books be graded? What portion of text-books for pupils below the high school grade must be given to this subject? For pupils above the high school grade? How must matters relating to this subject be distributed in text-books? What is the law relating to pages on this subject which are put at the end of a book? What are the requirements in relation to Regents' examinations? What in relation to normal schools, institutes and training classes? What is the duty of a teacher in relation to teaching this subject? What is the duty of the Commissioner of Education in case a teacher refuses to teach the subject? What is required of a teacher under this law in order to obtain a certificate? What action must be taken by city authorities before cities can receive any of the State funds? By union free schools? By common schools? What is the duty of school officers under this law? Under what circumstances may school authorities purchase text-books? What is the duty of the Commissioner of Education when any city or school district fails to comply with any of the provisions of this law?

Can religious exercises be lawfully conducted in any public school? Can pupils be required to remain in school during a religious exercise? Can a pupil be compelled to take part in any religious exercise? Can any portion of the time prescribed for public school work be devoted to religious exercises? Is reading the Bible or repeating a prayer a religious exercise?

Under what conditions might religious exercises be conducted in a public school?

CHAPTER XVIII

CONTRACTS FOR EDUCATION OF CHILDREN—TRANSPORTATION OF CHILDREN—FREE TUITION IN HIGH SCHOOLS—SAVING BANKS—VACCINATION.

[Article 21]

Contracts Between Districts for Education of Children.—Any school district, by a majority vote of the qualified voters present and voting, may direct the trustees of such district to contract with the trustees or boards of education consenting thereto of any district or city for the education of its children. Such contract shall be for such period as agreed upon and shall not exceed one school year. This contract must be written and in the form prescribed by the Commissioner of Education. It should be certified by the trustees of each of the districts, or, if either of the districts has a board of education, by the secretary of such board, and filed with the Commissioner of Education. If such contract is approved by the Commissioner of Education the district whose children are educated under such contract shall be deemed to have employed a qualified teacher for the period of such contract. Such contract is not binding upon either party until it is approved by the Commissioner of Education. Whenever the period of such contract, combined with the period of time school is actually taught in such districts by a qualified teacher, amounts to at least 160 days, such district shall be entitled to receive a *district quota*. In no instance, however, can a school district receive a greater amount of public money than the total expense incurred in payment of tuition and transportation of pupils.

The Legislature of 1904 amended this law by providing that a district could contract for the education of part of its children.

The education department has ruled that such contract may be made when such children are so located in a district that they may attend the school in an adjoining district more conveniently than the school in their own district, when better facilities will be afforded by contracting with two or more districts; and when the parents of all the children of a particular grade or grades below the eighth grade will consent to the education of their children in another district.

When a district maintains a school and in addition thereto makes a contract for the education of at least twelve of its children, such district is entitled to its district quota, and also to a teacher's quota if the expense under such contract, including transportation of pupils, equals or exceeds a teacher's quota. When the amount is less than a quota a like amount will be apportioned the district.

Transportation of Pupils.—When the voters of any school district meeting have authorized a contract with the school authorities of any city or other school district for the education therein of its children of school age, they may also authorize a tax to pay the expenses of conveying the children of such district to the schools of the city or school district with which such contract has been made. When such contract has been made the trustees of a district may use any portion of the district quota to pay for the education of such children under the terms of such contract, and also for the expenses of the transportation of such children.

If any of the children of school age in a district live so remote from the school-house therein that they are practically deprived of school advantages during any portion of the school year, the voters at a district meeting may provide for the transportation of such children from their homes to the school-house of the district. The expense therefor may be met by a district tax, or it may be paid out of the *district quota* apportioned the district.

Parents Not Entitled to Compensation for Conveying Pupils.
—To vote compensation to a parent from the public funds for

taking his child to and from school was not intended under the contract law. Payment to a parent for conveying his children to school comes dangerously near being an improper consideration to influence his vote in favor of the contract system when it might be more desirable to maintain a home school. A school district should maintain a home school unless it clearly appears that the district is too weak financially and numerically to do so. Even then it should be clearly shown that the educational facilities of the district will be improved by contracting, and that it may be done without imposing undue hardships upon the children required to attend school under such contract. Beyond that the intent of the law in providing for transportation was that it should be regular and daily; that individual parents should not derive pecuniary advantage from it; and that nothing should be left to parental convenience or caprice. The general rule should be that one person of proper character, furnishing suitable accommodations, should be regularly employed, and the contract for transportation should be awarded, after opportunity for competition, to the most reliable party who will furnish the best transportation at the lowest cost to the district. (Com'r Draper, No. 5219, October 31, 1905.)

The Commissioner of Education will not approve a contract for the education of children when it is shown that the distance such children must travel to attend school is so great as to practically deprive them of school privileges, until transportation is provided for such children.

FREE TUITION FOR NON-RESIDENT PUPILS IN ACADEMIC
DEPARTMENTS

[Section 493]

Object.—The object of this law which has caused so much discussion is to bring within the reach of every boy and girl in the State a complete academic education without charge for tuition.

Approved Schools.—No school can receive tuition from the State for the attendance of pupils under this act unless such

school is approved by the State Education Department. To be approved a school must maintain a satisfactory course of study, sufficient teaching force, adequate equipment, and suitable school building facilities.

Schools Entitled to Compensation.—To entitle a school to receive compensation for the instruction of non-resident pupils, such pupils must have been in regular attendance in the academic department thereof for a period of not less than eight weeks, and they must reside in districts of the State not maintaining an academic department.

Pupils Who May be Admitted.—All pupils residing within the State and in districts not maintaining an academic department may be admitted into any of the approved schools free of tuition by presenting to the local authorities a Regents' preliminary certificate. Students possessing equivalent qualifications covering elementary work will be admitted after their credentials have been approved by the State Education Department. The holders of uniform teachers' certificates meet the requirements. Pupils are not required to attend the school nearest their residence, but may attend any approved school where the school authorities admit them under this act. Pupils residing in districts which maintain less than a four years' course may be admitted to schools of higher grade after completing the course of study prescribed for the school of the district in which they reside.

Schools Cannot Charge Pupils.—A school receiving non-resident pupils at State expense must accept what the State offers in full payment for tuition unless the pupils reside in a town adjacent to a city or union free school district having a population of five thousand or more in which the high school which they are attending is located. In such case a district may, with the approval of the Commissioner of Education, charge a pupil its customary rate of tuition upon the condition that the district in which the student resides assumes the difference between the amount paid by the State and the amount of tuition charged.

A school is not required to furnish non-resident students

with free text-books or any other accommodation not fairly included under the term tuition.

Schools Need Not Accept State Pupils.—No school in the State is required under this law to accept non-resident pupils under this act, and schools which do not may accept non-resident pupils under such conditions and charges for tuition as may be agreed upon between the school authorities of such school and such non-resident pupils.

Tuition Not Chargeable for Certain Students.—An approved school receiving non-resident pupils under this act will not be entitled to tuition for members of teachers' training schools or training classes. Nor will such schools be entitled to tuition for pupils in the academic department from districts contracting with such approved school for the education of their children. The State will not pay the tuition of non-resident pupils in attendance on any department or grade below the academic department.

Compensation.—An approved school receiving non-resident pupils under this act is entitled to \$20 per year tuition for a school year of at least thirty-two weeks, or a proportionate amount for a shorter period of attendance of not less than eight weeks.

SCHOOL SAVINGS BANK

[Section 160—Banking Law]

General Statement.—The legislature of 1904 amended the banking law by authorizing school savings banks in the public schools of the State. This action was necessary in view of an opinion of the State Attorney-General, in order to legalize a growing practice in many schools intended to inculcate principles of thrift and economy at an early period of the child's life.

Who May Collect Money.—The principal of any public school in the State or a superintendent of schools, or any other person designated for that purpose by a board of education, may collect from pupils once a week or from time to time small amounts of savings.

How Deposited.—Such savings shall be deposited on the day collected by the person making such collection in a savings bank of the State. Such deposits must be to the credit of the respective pupils from whom it was collected. If the amount collected at any one time shall be insufficient for the opening of individual accounts, it shall be deposited in the name of the principal or superintendent in trust and to be transferred to the credit of the respective pupils to whom it belongs when the amount is sufficient for that purpose.

Data to be Furnished Bank.—Principals or superintendents must furnish banks in which such deposits are made a list of the names of such depositors, their ages, signatures, addresses, place of birth, parents' names, and any other data required by such banks.

Penalty for Violation of This Law.—For the purposes of this law it is lawful to use the terms "School Savings Banks," or "System of School Savings Banks" in circulars and otherwise, but for a violation thereof a penalty of \$100 is imposed for each offense and for each day such offense is continued.

VACCINATION

[Chapter 49, Public Health Law]

The Court of Appeals, in a decision recently rendered declared that part of the public health law relating to the vaccination of children constitutional. This law applies to cities as well as school districts.

The Supreme Court of the United States also held that the Massachusetts law, which is similar to the New York law, was not an infraction of the United States Constitution. Opinion by Justice Harlan, February 20, 1905.

Pupils Not Vaccinated Can Not Attend School.—No child or person who has not been vaccinated shall be admitted or received into any public school of the State. Trustees are required to enforce this provision of the law.

Notice by Trustees.—When this law is not complied with trustees must give ten days' notice of their intention to enforce it and must provide for free vaccination of the poor. Such notice must be posted in two conspicuous places of the district or city and must state the provision which has been made for the vaccination of children whose parents or guardians are unable to procure vaccination for them.

Appointment of Physician.—Boards of trustees are authorized to appoint a competent physician and fix his compensation for vaccination of children under this provision of law.

Duty of Physician.—It is the duty of such physician to ascertain the number of children of school age who have not been vaccinated, and prepare a list of their names and file such list with the board of trustees. Such physician shall also vaccinate such persons as the board of trustees shall direct, and shall issue to them certificates of vaccination.

Expenses, How Paid.—The expenses incurred under this law are chargeable to the district or city as an expense for maintaining school and shall be levied and collected in the same manner as other school expenses.

Report of Trustees.—Trustees of school districts are required in their annual report to include the number of vaccinated and the number of unvaccinated children of school age.

REVIEW QUESTIONS

How may a district determine to contract for the education of its children? With whom may it contract? For what period? Where must contract be filed? In what form? What approval is necessary? Is a contract valid without such approval? What effect does such contract have upon the right of the district to State funds? When will a district be entitled to a district quota? What is the maximum amount a district may receive? When may a district contract for part of its children? What amount will then be apportioned a district?

How may transportation of pupils be authorized? Who makes such contract? From what funds may the expense of such contract be paid? When may a district not under contract provide for the transportation of its pupils? When will the Commissioner of Education refuse to approve contracts?

What was the object of the non-resident free tuition law? What schools will be approved? What schools are entitled to compensation? What pupils may be admitted under this law? May additional tuition be charged pupils? Are schools compelled to admit pupils under this law? For what pupils are schools prohibited from charging tuition? What tuition is paid by the State?

What is the object of the school savings bank law? Who may collect money? How must such money be deposited? What data must be furnished banks? What penalty is prescribed for violation of this law?

Who is required to enforce the vaccination law? What notice must trustees give? What power has the board in relation to appointment of physician? What are the duties of such physician? How are the expenses of enforcement of this law paid? What report to trustees must be made?

CHAPTER XIX

TEACHERS' QUALIFICATIONS, CERTIFICATES, CONTRACTS, POWERS AND DUTIES

[Article 20]

Who are Legally Qualified to Teach.—No person is legally qualified to teach in a public school in any supervisory district who does not hold either a State certificate, a college graduate's certificate, a normal school diploma, a temporary license, a school commissioner's certificate or a district superintendent's certificate. To be legally qualified to teach in a city, a person must hold one of the first three certificates above named or a certificate issued by the school authorities of the city in which such person desires to contract.

Age of Teachers.—No person can legally be licensed to teach in a public school of this State who is not at least eighteen years of age.

State Certificates.—These certificates have been issued by either the State Superintendent of Public Instruction or the Commissioner of Education since 1875, upon examination only. Their holders are legally qualified to teach for life in the public schools of the State without further examination. Previous to 1875, these certificates were issued by the State Superintendent upon recommendation. No examinations were required. Such certificates confer the same rights upon those holding them as State certificates issued since 1875. Candidates must pass the required examinations and must have taught successfully for two years, to be eligible to receive one of these certificates.

College Certificates.—A certificate, valid for three years in all schools, will be issued to any graduate of a college approved by the State Commissioner of Education, who shall have completed therein a course in education under the regulations of the

State Education Department. On evidence of three years successful experience in teaching a permanent certificate will be issued.

A certificate, valid for two years, will be granted to a graduate of an approved course in an approved college. If during this term the holder shall pass an examination in psychology, history of education, the principles of teaching and methods of teaching, the certificate will be renewed for one year. This certificate entitles its holder to teach in high schools and in rural schools or in all schools except primary and grammar grades in cities and villages of 5,000 or more. At the end of three years successful experience in teaching a college graduate certificate will be issued, valid for life.

Normal School Diplomas.—These diplomas are issued by the normal school authorities to students who have completed one of the prescribed courses of these schools. Such diplomas legally qualify those who hold them to teach for life in the public schools of the State without further examination.

Commissioners' Uniform Certificates.—These certificates were issued by school commissioners under such regulations as the Commissioner of Education prescribes.* This class of certificates now in force are first grade, training-class certificates, and special certificates known as drawing, kindergarten, vocal-music, elocution, commercial and manual training.

First, second and third grade certificates are no longer issued.

First Grade.—These certificates are valid for ten years, and upon expiration they may be renewed, without examination, by any district superintendent in the State for a like period, provided their holders have taught under them five years. These certificates are valid in the supervisory district for which they are issued, and upon indorsement by the district superintendent having jurisdiction, they become valid in any supervisory dis-

*The regulations under which these certificates are issued may be obtained at any time from the Education Department.

trict in the State. Candidates must have had two years' experience, to be eligible to receive one of these certificates.

Training Class.—These certificates are issued to those who complete one year's work in a training class under the supervision of the Education Department.

Training School Certificates.—These certificates are issued for three years by city superintendents to those who complete a course in a training school. They are renewable for ten years without examination, and district superintendents are required to indorse them.

Drawing Certificates.—These certificates are issued to special teachers of drawing. They entitle those holding them to teach *drawing* only. A person who holds a drawing certificate and a general certificate of any grade may teach drawing and do general teaching also. Drawing certificates are valid for three years, and may be renewed without examination for a period of ten years in the same manner as first-grade certificates are renewed.

Kindergarten Certificates.—The holders of these certificates are entitled to teach *kindergarten* only. The holder of a kindergarten certificate, however, who also holds another certificate permitting general teaching, is not debarred from teaching under such other certificate. These certificates are valid for three years, and may be renewed under the same provisions as those which govern the renewal of first-grade certificates.

Vocal-Music Certificates.—These certificates are issued without examination, are valid for three years, and may be renewed. A candidate to receive a certificate of this kind must show to the satisfaction of the Commissioner of Education that she has received sufficient professional training in vocal music and has had sufficient experience in teaching the subject, to be well qualified to receive such certificate and that she completed a high-school course or its equivalent.

Elementary Certificates.—These certificates are issued by district superintendents for a period of two years. The holders

of these certificates may teach in schools which do not maintain academic departments subject to the approval of the superintendent. These certificates are not renewed but may be extended one year for each count of academic work completed while they are in force, and may also be indorsed by district superintendents.

Academic Certificates.—These certificates are issued by district superintendents for a period of three years, are limited to schools approved by district superintendents and are not valid in schools which maintain an academic department. But one certificate will be issued to the same person, and such certificate will not be renewed or extended, but may be endorsed by district superintendents. To receive such certificate a candidate must hold a Regents' academic diploma.

General Certificates.—A State certificate, a college-graduate certificate, a normal-school diploma, a training-school certificate, a professional certificate, a training-class certificate and a first-grade certificate, may be regarded as *general certificates* to distinguish them from special certificates. These general certificates state that their holders are properly qualified and are entitled to teach in the public schools. Such certificates do not restrict their holders to the teaching of any particular subject. A special certificate does so restrict, as, for instance, a drawing certificate entitles its holder to teach drawing only. The holder of any one of these general certificates may, therefore, teach any special subject, as drawing or kindergarten, without holding a special certificate.

Temporary Licenses.—The Commissioner of Education may, in his discretion, issue a temporary license, valid in a school district, a supervisory district or a city for a period not to exceed one year, whenever in his judgment it is necessary or expedient to do so.

Refusal to Issue Certificates.—A district superintendent may refuse to issue a certificate to a person who has passed the required examination, if a valid reason is assigned for such

refusal. In cases of this kind, the aggrieved party may appeal to the Commissioner of Education from the action of the superintendent in refusing to issue his certificate. If in the judgment of such commissioner the reasons given by the superintendent are valid, such superintendent will be sustained in his refusal to issue such certificate, but if the Commissioner of Education does not consider the superintendent's reasons valid, he will direct such superintendent to issue the certificate. Immoral character or lack of ability to govern or manage a school has been held to be a valid reason for withholding a certificate.

Indorsement of Certificates by the Commissioner of Education.—The Commissioner of Education may in his discretion indorse State certificates issued in other States, or normal-school diplomas issued by the authorities of normal schools of other States. When such certificates are indorsed by the commissioner they have all the force and effect of State certificates and normal-school diplomas issued by the proper authorities of this State.

Indorsement of Certificates by District Superintendents.—District superintendents are required under the regulations prescribed by the Commissioner of Education to indorse *first grade*, *training-class* and *special* certificates issued under the Department regulations, or to assign valid reasons for refusing to do so. When such certificates are indorsed by another superintendent they have the same value in the district of the superintendent who indorsed them as in the supervisory district for which they were originally issued.

The Commissioner of Education holds that the holders of certificates which district superintendents are required under his regulations to indorse are legally qualified to contract to teach in any supervisory district in the State. They may legally contract in such districts before their certificates have been indorsed by the superintendent having jurisdiction. After making a contract in a supervisory district other than the one for which a certificate is valid, the holder of such certificate should

present it for indorsement to the superintendent having jurisdiction over the district for which such contract was made. If a superintendent refuses to indorse such certificate, its holder may appeal from the action of the superintendent to the Commissioner of Education, who will determine upon the validity of the reasons assigned by the superintendent in refusing his indorsement. (No. 4888.)

Payment of Unqualified Teachers.—No part of the school moneys apportioned to a school district can be applied to the payment of the salary of an unqualified teacher. Nor can the salary of an unqualified teacher be collected by a tax upon the district. Any trustee who applies such money or who directs or consents to the use of such money contrary to these provisions, is guilty of a misdemeanor. Any fine imposed therefor must be for the benefit of the common schools of the district.

Any trustee or trustees who employ unqualified teachers are personally responsible to such teachers for their salary.

A trustee or trustees who wilfully employ a teacher not legally qualified may also be removed from office by the Commissioner of Education.

Revocation of Certificates.—There are two authorities by either of whom teachers' certificates may be revoked, namely, the Commissioner of Education and a district superintendent. The Commissioner of Education may revoke a certificate of any grade by whomsoever issued, for all reasons on which such action may be legally taken. Since the enactment of the consolidated school law of 1894, school commissioners have had authority to revoke certificates on the ground of immoral conduct only and district superintendents possess this power. On this ground a district superintendent may revoke a State certificate, a normal-school diploma, a college-graduates' certificate, or a certificate issued by any district superintendent in the State.

Whenever charges have been preferred to a district superintendent against the moral character of a teacher, it is the duty of the superintendent to furnish such teacher a copy of these

charges and also to notify the teacher of a time and place at which a hearing will be given thereon. At this hearing the evidence in support of such charges must be presented, after which the accused is entitled to present evidence to disprove such charges. The accused is also entitled to be represented by counsel. When a certificate issued by the Commissioner of Education or a normal-school diploma is revoked by a superintendent on these grounds, the superintendent should immediately file with the Commissioner of Education a notice of such action.

A district superintendent cannot revoke a certificate for deficiency in scholarship or for inability to manage or govern a school. These are questions which the superintendent should have determined before issuing a certificate. The issuance of the certificate presupposes that proper investigation has been made in regard to the candidate's qualifications, and that such qualifications have been found to be satisfactory to the superintendent. The only authority to revoke a certificate on this ground is the Commissioner of Education.

There are two ways of disposing of an inefficient teacher. One way is to establish such inefficiency to the satisfaction of the Commissioner of Education, upon direct appeal for that purpose in due form. The Commissioner of Education will then revoke the certificate of such teacher. The second method is for the board of trustees to dismiss the teacher. Then, if the teacher appeals from the action of the board, the Commissioner of Education becomes the judge of the validity of the grounds upon which the board based its action. The charge of inefficiency must in this case, also, be proved to the satisfaction of the Commissioner of Education. If proved, he will sustain the action of the board.

A certificate should not be revoked for immoral conduct which occurred previous to the issuance of the certificate if such conduct was known to the official who issued the certificate at the time he issued it.

Charges of immoral conduct against a teacher must be definite and specific so that the accused will know with just what acts he is charged. A superintendent has no power to place the holder of a certificate upon trial on general charges of immoral conduct.

The education law provides that certificates may be revoked for the following specific causes:

1. Failure to attend teachers' institute as required by law.
2. Failure to complete an agreement to teach a term of school without assigning a valid reason.
3. Immoral conduct.

In cases which have come before the Commissioner of Education upon appeal it has been held that certificates may be revoked for a teacher inflicting upon a pupil unreasonable, unnecessary, and cruel punishment, and also for intemperance upon the part of the teacher.

Superintendent Draper held that the severe penalty of revoking a certificate should not be imposed except for a cause sufficiently grave to justify a permanent prohibition of the right to teach. (No. 3572.)

In an appeal case decided by Superintendent Skinner the broad and reasonable principle was maintained that the general conduct of a teacher should be such as to inspire the fullest confidence of parents, and that when the acts and general conduct of a teacher were such as to produce the opposite result, such teacher was unfit to be permitted to remain in the teaching service. (No. 4644.)

The revocation of a certificate terminates any existing contract between the holder of such certificate and a trustee or trustees.

Who May Contract.—Any person can enter into contract to teach a public school who holds a legal certificate of qualification.

Contracts with Minors.—A minor may contract with a board of trustees to teach a public school. A minor making such contract must complete the term of contract, and for a failure

to do this without a valid reason, such minor's certificates may be revoked. Under the general law of contracts, a minor would not be responsible to a board of trustees for any damage claimed by reason of such minor's failing to comply with the terms of his contract.

Contracts with Married Women.—The domestic relations law gives married women the right to make contracts and to receive compensation thereon.

By Whom Employed.—Teachers must be employed by the trustees of the districts or by the board of education. A school district meeting cannot direct what teachers shall be employed. This is a power to be exercised solely by the trustees or by a board of education.

Employment of Relatives.—No person related to one or more of the trustees of a common-school district by blood or marriage can be employed by such trustees unless such action is approved by two-thirds of the voters of such district present and voting at an annual or a special meeting of the district.

In a union free-school district no person can be employed by a board of education, who is related by blood or marriage to any member of the board, except by a two-thirds vote of such board, and such vote should be entered upon the proceedings of the board.

When a teacher, who is a relative of a trustee of a common-school district or of a member of a board of education, has been employed under the approval of such district or such board as stated above, and the same trustees or board of education desire to employ such teacher for the next ensuing year, it is not necessary to obtain a second approval of such district or board. (D. 4588.)

Period of Employment.—A trustee or trustees cannot employ a teacher for a shorter period than ten weeks, except to fill out an unexpired term. Nor can a trustee or trustees contract with a teacher for a longer period of time than that for which such teacher's certificate of qualification is valid. All contracts must

be for a specific time. A trustee cannot legally employ a teacher for "as long as her work is satisfactory."

The sole trustee of a district may not contract for the employment of a teacher for a period extending beyond his term of office.

A teacher employed contrary to these provisions has no claim against the district for salary, but she may enforce the contract against those making such contract as individuals.

Form of Contract.—Trustees are required to make and deliver to each teacher employed a *written* contract. This contract must be signed by the trustee or trustees or some person authorized by said trustee or trustees to represent them.

This contract should show the agreement between the trustees and teacher in relation to the period of employment, the amount of compensation, and when the same shall be payable. It is also advisable to state in the contract whether the teacher is to be employed in a primary or grammar department, or to perform work along special lines, or to act as the principal.

A verbal contract the terms of which can be proved is binding and can be enforced. It is advisable, however, for trustees to issue written contracts and for teachers to insist on receiving them. The burden of establishing a verbal contract is generally on the teacher.

In a district having more than one trustee, the contract must be made by a majority of such trustees and at a meeting regularly held. The contract is not legal if the consent of the trustees is obtained separately and not at a meeting properly convened. A contract made by one trustee when duly authorized to act as the agent of the other trustees of the district is binding.

When Compensation is Due.—Teachers can require trustees to pay them as often at least as at the end of each calendar month of the term of employment. A contract cannot legally be made providing that a teacher shall not be paid until the end of the term. A contract providing that a teacher shall not be paid as often as at the end of each calendar month is not

binding, and such teacher can insist upon payments being made at the end of each calendar month. There is no legal objection to a contract which provides that a teacher shall be paid oftener than at the end of each month.

(At the close of this chapter the form of contract prepared by the Education Department is given. Any other good form may be used.)

Orders on Supervisors and District Collector or Treasurer.—The law provides that trustees may issue orders on the supervisor of the town and on the collector or treasurer of the district in payment of teachers' salaries. The law also makes it a misdemeanor for a trustee to issue an order on any of these officers unless there are sufficient funds in the hands of such officer to pay the same. Teachers are therefore required under the law to accept such orders properly issued in payment of their salaries. A teacher is not, however, required to accept a check from a supervisor, collector, or treasurer. These officers are required to honor such orders by paying the money thereon.

Payment When School is Closed.—Whenever school is closed by proper authorities during a term for which a teacher has been engaged and the teacher is thereby restrained or prevented from teaching, such teacher is entitled to full compensation for the time school is thus closed. Cases of this kind arise when a school is closed by the school authorities or the health authorities, owing to the prevalence of a contagious disease, or when the school-house has been destroyed by fire or otherwise. Trustees of rural schools often direct that schools shall be closed for a day for funerals and other occasions, and in all such cases the teachers employed in such schools are entitled to full compensation for such time. When a trustee refuses to pay a teacher for such time, the remedy for the teacher is to appeal in proper form to the Commissioner of Education.

Dismissal of Teachers.—A teacher cannot be dismissed during a term of employment except for reasons which the Commissioner of Education would consider sufficient if brought before

him upon appeal. Breach of contract, neglect of duty, immoral conduct have each been held to be sufficient reasons.

Whenever a teacher is dismissed by a board of trustees without sufficient cause, he should hold himself in readiness to complete his contract and should make all reasonable efforts to do so. Under these circumstances a teacher would be entitled to full compensation for that portion of the term for which he was employed, but during which he did not teach owing to his being dismissed. If a teacher acquiesces in the action of a board of trustees in dismissing him, he is not entitled to compensation for the portion of the term which he failed to teach on account of such dismissal.

A board of trustees may dismiss a teacher *without cause* upon paying such teacher full compensation for the whole period for which such teacher was employed.

The teachers' remedy in these cases is to be found either in the courts or in an appeal to the Commissioner of Education. The latter is preferable. The appeal may be for a reinstatement in the position from which the teacher was dismissed or for the payment of salary for the time the teacher was deprived from teaching.

Record of Attendance.—It is the duty of teachers to keep a record of attendance of all pupils in the school register provided for that purpose. This record must be kept as required under the directions given in the register which is prepared under the supervision of the Commissioner of Education. It is important that these records shall be kept accurately, as they form the basis for apportioning part of the State school moneys and are also important in connection with the enforcement of the compulsory-attendance law.

Teachers are responsible for the safe keeping of these records and should deliver them upon the close of their term of engagement to the clerk of the district.

Verification of Records.—Teachers are required to make affidavit to the correctness of the register kept by them. This

affidavit may be taken by the district clerk and without charge. A teacher is not entitled to receive pay for any time taught until affidavit is made to the correctness of the register for the period for which payment is made.

Rules and Regulations for Teachers.—A board of trustees may prescribe general rules for the management of the school. When such rules have been adopted, it is the duty of teachers to enforce them, and so far as they affect the teachers themselves to comply with them. The members of a board of trustees have no authority to enter the school-room to direct any of the work in progress or to direct the method of enforcing the rules of the board. This power rests solely with the teacher.

School Hours.—The school law does not define the hours that shall be devoted to school work. Custom has fixed the hours from 9 A. M. to 12 M. and from 1 P. M. to 4 P. M. An intermission of ten or fifteen minutes is given each half-day session. The board of trustees of a district may, however, designate other hours during which the school shall be in session. If these hours are reasonable, it is the duty of teachers to conduct school during the hours designated. If unreasonable hours are designated by a board, the Commissioner of Education may, upon appeal in due form, modify the hours fixed by such board.

Closing School.—A teacher has no authority to close school on any school day without the consent of the board of trustees. A teacher who does close school on a school day without such consent is guilty of a breach of contract, and may be dismissed by the board. The consent of trustees is not necessary in order to close school on a legal holiday or a general election day, or for the purpose of attending a teachers' institute, as required by law.

Janitor Work.—Neither teacher nor pupil can be compelled to do the janitor work of the school building. If the contract between the teacher and the trustees provides that the teacher shall perform this work, then it becomes the duty of the teacher to do it upon the ground that she has consented to do so by

special agreement in her contract. A teacher who voluntarily does this work is not entitled to compensation for performing it.

Enforcement of Payments.—A teacher may bring an action in court for salary due him which has not been paid. He may also apply to the court having jurisdiction for a writ of *mandamus* compelling the trustees to pay the salary to which he is entitled. These methods are expensive and require more time than teachers can generally give for the adjustment of such cases. The most inexpensive way and the method by which adjustment can be reached in the shortest period of time is to appeal in due form to the Commissioner of Education who has power to direct such payments and to enforce his decision.

Wearing Religious Garb.—There is no statute law in this State regulating the dress which shall be worn by teachers. The general influence upon the school system of teachers wearing a religious garb has been brought by appeal before the State Department in two cases. In March, 1887, on an appeal from the action of the board of education of Suspension Bridge, Superintendent Draper ruled as follows:

“The wearing of an unusual garb, worn exclusively by members of one religious sect and for the purpose of indicating membership in that sect by the teachers in a public school, constituted a sectarian influence, which ought not to be persisted in. The same may be said of the pupils addressing the teachers as ‘Sister Mary,’ ‘Sister Martha,’ etc. The conclusion is irresistible that these things may constitute a much stronger sectarian or denominational influence over the minds of children than the repetition of the Lord’s Prayer or the reading of the scriptures at the opening of the schools, and yet these things have been prohibited whenever objection has been offered by the rulings of this Department from the earliest days, because of the purpose enshrined in the hearts of the people and imbedded in the fundamental law of the State, that the public school system shall be kept altogether free from matters not essential to its primary purpose and dangerous to its harmony and efficiency.” (D. 3520.)

In deciding an appeal from the action of the Board of Education of West Troy School District (now Watervliet), involving the same point, Superintendent Skinner held as follows:

I therefore concur in the opinion of my predecessor in office, viz., that the teachers in the public schools of the State ought not to wear the distinctive garb of any religious denomination, order, sect, or society, but ought to dress in the usual costume worn by men and women generally; and that any other costume or usage is inimical to the best educational interests of the locality and should be discontinued by direction of the local school authorities whose duty it is to so administer the trusts reposed in them as to bring about the very best results with the least irritation, and in harmony with the spirit of the section of the organic law herein quoted.

The school best does this which avoids any reference directly or indirectly to any particular denomination, sect, or order, both in the construction of the buildings used for school purposes and in the dress worn by the teachers employed therein. To those not satisfied with this complete and actual severance of secular and religious instruction, the private school is open.

I also decide that it is the duty of the respondents to require the teachers employed by them to discontinue the use in the Public School room of the distinguishing dress or garb of the religious order to which they belong? (D. 4516.)

On May 15, 1897, Superintendent Skinner directed the Board of Education of Watervliet to notify and require all teachers employed in that city and wearing a religious garb to discontinue the use of such garb. The board was also directed, in case any such teacher should refuse or fail to comply with such requirement, to dismiss such teachers from employment in the public schools of the city of Watervliet. An order was also issued by the State Superintendent prohibiting the County Treasurer from paying the money apportioned to this city until directed to do so by the Superintendent. (D. 4546.)

The Court of Appeals held that the decision of the State Superintendent on this question was in effect a regulation which he was authorized to make and that the prohibitive order was in accord with the public policy of the State as declared in section 4, article 9 of the Constitution. (184 N. Y. 421.)

When Teacher's Illness Prevents Teaching.—Whenever a teacher under contract is unable to teach by reason of illness, such teacher should report the fact of such illness to the trustee or trustees. These officers may, if they desire, employ a sub-

stitute teacher during the illness of the regular teacher. Such regular teacher has no voice in determining who the substitute teacher shall be. This is a question to be determined solely by the trustees. If the illness of a teacher is continued for a long period, and there is not reasonable hope of sufficient recovery to enable such teacher to resume teaching, the trustees may inform such teacher that the contract has been declared void by her inability to perform her part of it. The trustees may then employ another teacher, and if the teacher dismissed feels aggrieved, she may appeal from the action of the trustees to the Commissioner of Education.

Authority Over Pupil.—There is no provision in the education law defining the authority which a teacher has over the pupils under his charge. The decisions of the courts and the rulings of the Commissioner of Education are, that the authority of the teacher over pupils is the same as that of a parent over a child, or as it is usually expressed, that a teacher stands in *loco parentis* to his pupils. The authority of the teacher begins at the time the pupil arrives upon the school grounds, extends to the close of school, and continues until the pupil has left the school grounds. Cases may be cited in which the courts have held that the authority of the teacher extends beyond these limits, and that the pupil is accountable to the teacher for his conduct on the way to and returning from school, and even elsewhere, when such conduct has a direct bearing upon the discipline and general welfare of the school. These are not, however, recent decisions, and are not safe guides for teachers of the present time. A modern view of courts and of departments having judicial powers is to restrict the authority of the teacher over the pupil to the time between the arrival of the pupil upon the school grounds and his departure therefrom. The superintendents of this State and the Commissioner of Education have taken this view.

Superintendent Draper held that the authority of the teacher was not absolute during the noon recess, and that a pupil pos-

sesses a legal right to leave the school grounds during the noon recess with the consent of his parents. (D. 3698.) The right of a teacher to detain a pupil after school hours is questionable. Where a parent objects to such detention, a teacher should not insist upon it.

The authority of the teacher, however, is restricted by the rules and regulations of a board of education or a board of trustees. Where a board of education or a board of trustees has prescribed regulations to govern the discipline of the school it is the duty of teachers to keep within the bounds of such regulations.

Employment of Teachers in Cities and Districts of 5,000 Population.—On January 1, 1897, the provisions of chapter 1031 of the Laws of 1895 went into operation. These provisions are now incorporated in section 551 of the Education Law and relate to *primary* and *grammar school* teachers, but do not apply to teachers of any other grade. Teachers who were employed under a valid contract at the time this law went into operation may be continued in the service, even if they do not possess the qualifications prescribed by this law. But all teachers who have been employed since January 1, 1897, or who shall hereafter be employed in any primary or grammar school in a city or district of 5,000 or more in this State authorized to employ a superintendent of schools must possess one of the three following qualifications:

First.—Such teacher must hold a diploma issued by one of the normal schools of this State or a life State certificate issued by a State Superintendent of Public Instruction or by the Commissioner of Education.

Second.—Such teacher must have had at least three years' experience in teaching and must possess a certificate issued by the proper local authorities.

Third.—Such teacher must have graduated from a high school or academy, or some other institution of equal or higher rank, having a course of study of at least three years, which is ap-

proved by the Commissioner of Education. Such teacher must also have completed subsequent to such graduation a course of not less than two years in a school or class for the professional training of teachers, and must hold a certificate issued by the proper local authorities. Such professional course must also be approved by the Commissioner of Education. These requirements now apply to districts of 5,000 population or more.

Suspension of Pupils.—There is no provision of law defining definitely the right to suspend a pupil from attendance upon school. This subject has been a question for the judicial consideration of State superintendents and of the courts. The present compulsory education act has so modified this question as to change materially former rulings relating thereto. We shall not therefore discuss these former rulings, but shall consider the question in its present aspect.

The trustee or trustees of a district is the proper authority to suspend pupils. A teacher does not possess this authority. A teacher may, for proper reasons, dismiss a pupil for the day, but not for a longer period. When a pupil is dismissed for a day, the teacher should at the close of school on such day report the facts in the case to the trustees. A board of trustees has the power to prescribe regulations for the government of the schools under their management, and such board may therefore prescribe regulations governing the suspension of pupils. If in such rules a board designates specific offenses for which a pupil may be suspended, and such rules also provide that for such offenses a teacher may suspend a pupil, the teacher has the power to enforce such rules and suspend the offender. State Superintendent Skinner held that pupils between the ages of eight and sixteen years who are required to attend upon instruction cannot be suspended from a public school for a longer period than ten days, unless the trustees provide a place at which such pupil may receive instruction equivalent to that required under the compulsory education act.

Public opinion supports the theory that schools are established

for the purpose of educating children, and that for grave causes only will school authorities be warranted in denying them the privilege of attendance thereon.

Expulsion of Pupils.—A board of trustees is the proper authority to expel a pupil from attendance upon a public school. A teacher does not possess this authority. A pupil required to attend upon instruction under the compulsory attendance act cannot be expelled from a public school unless the school authorities provide a place where such pupil may attend upon such instruction.

A pupil having a contagious disease is not in a proper physical condition to be required to attend upon instruction, and may, during the continuance of such disease, be denied school privileges. To permit such pupil to continue in attendance upon school would expose other pupils to the dangers of such disease.

Incorrigible pupils and pupils whose moral senses are so depraved that their association with other pupils would contaminate such pupils may be expelled from public schools. If such pupils are between eight and sixteen years of age and are required to attend upon instruction under the compulsory attendance act, they should be proceeded against as disorderly persons.

Corporal Punishment.—There is no direct statute enactment regulating the right of a teacher to inflict corporal punishment. The Penal Law provides that it shall not be unlawful for any parent, guardian, master, teacher, or the authorized agent of a parent, in the exercise of a lawful authority, to restrain or correct his child, ward, apprentice, or scholar, provided the force or violence used is reasonable in manner and moderate in degree.

Under the provisions of the Education Law, a board of trustees of a common school district, or a board of education of a union free school district, possesses the authority to prescribe rules and regulations for the government of a school. When a board of trustees or a board of education adopts a regulation providing that corporal punishment shall not be inflicted, a teacher has no legal authority to resort to that mode of punish-

ment. If a board of trustees or a board of education should adopt a regulation of this kind, and a teacher, in violation thereof, should inflict corporal punishment upon a pupil, such teacher would be committing an assault and subject to the penalties provided by the Penal Law.

In the absence of a regulation of this kind having been adopted by a board of trustees, a teacher may, under the protection of the Penal Law, inflict corporal punishment, providing such punishment is reasonable and moderate in degree. In inflicting this mode of punishment, a teacher should give full consideration to the gravity of the offense, the general effect of such offense upon the school, the temperament and the other physical conditions of the pupil. Cases of school discipline are rare in which teachers should finally resort to this extreme if not barbarous mode of punishment.

Control of School Papers, Athletics, etc.—It is within the legal power of school authorities to control the management and publication of papers published by the pupils of a school as a school paper. Commissioner Draper held in September, 1904, in the Monticello case, that a publication standing for a school and appealing to the constituency of that school on that ground is not a private or personal affair but a public affair, and as such is subject to the school authority of the district which it represents. The Commissioner also sustained the principal and the board of education in suspending a pupil in charge of a school paper who refused to be governed by the rules prescribed by the school authorities to govern the management of such paper. (See decision 5142—Report for 1905.) School authorities undoubtedly possess the same supervision over school organizations of a literary character or over those for the purpose of promoting athletics.

FIRE DRILL

[Article 28]

Duty of Principal, etc.—Each principal or other person in charge of a public or private school or other educational insti-

tution, having more than 100 pupils, is required to instruct and train such pupils by means of drills, so that in any sudden emergency these pupils may be able to leave the school building in the shortest possible time and without confusion or panic. These drills or dismissals must be held as often as at least once each month.

Penalty.—Any principal or other person failing to perform the duty required in above paragraph is guilty of a misdemeanor, punishable at the discretion of the court by a fine not exceeding \$50. Such fine must be paid to the pension fund of the local fire department where there is such a fund.

Duty of Board of Education.—The board of education of any city or district to which this act applies, or any other body having control of the schools to which this act applies, must have a copy of the act relating to fire drills printed in a manual or hand-book prepared for the guidance of teachers.

TEACHER'S CONTRACT

I,, of, county of, a duly qualified teacher, hereby contract with the board of trustees of District No., town of, county of, to teach the public school of said district for the term of consecutive weeks, commencing, 1....., at a weekly compensation of dollars and cents, payable at the end of each thirty days during the term of such employment.

And the board of trustees of said district hereby contract to employ said teacher for said period at the said rate of compensation, payable at the times herein stated.

Said board of trustees reserve the right to provide for a vacation or vacations of not more than weeks in the aggregate during said term.

Dated, 1.....

....., *Teacher.*
 }
 } *Trustees.*

This contract should be executed in duplicate and one copy thereof given to the teacher and one retained by the board.

REVIEW QUESTIONS

What certificate must a teacher hold to be qualified to teach in a supervisory district? In a city? How old must a person be before being eligible to receive a teachers' certificate? How are State certificates issued? What rights do they confer? Explain the difference between those issued previous to 1875 and those issued since that date? What are college graduates' certificates? What rights do they confer? Who are eligible to receive them? What are normal school diplomas? What rights do they confer? What are commissioners' uniform certificates? Name the certificates issued under the uniform system?

Who are eligible to receive first-grade certificates? For what period are they valid? For how long may they be renewed? Who are eligible to receive a training class certificate? Explain their value. Explain the value of drawing certificates. When may a drawing teacher teach drawing and do general teaching also? Explain the value of kindergarten certificates. Vocal music certificates. Elementary and academic certificates. When may a kindergarten teacher teach kindergarten and do general teaching also? A music teacher teach vocal music and do other teaching also? By whom may temporary licenses be issued? For how long?

Are superintendents required to issue certificates to candidates who have passed the required examination? What are valid reasons for refusing to do so? What remedy has the aggrieved party? What certificates of qualification may the Commissioner of Education indorse? What is the effect of such indorsement? What certificates are superintendents required to indorse? When may a superintendent withhold his indorsement? What is the effect of such indorsement? What is the ruling of the Commissioner of Education in relation to the right of a teacher to contract who holds a certificate subject to indorsement? What is the remedy for a person holding such certificate when a superintendent refuses to endorse it? What moneys cannot be applied toward the payment of an unqualified teacher? If a trustee appropriates these moneys for the payment of an unqualified teacher, what is the penalty? Who are responsible to such teachers, when employed, for their salaries? What is the penalty for wilfully employing an unqualified teacher?

What authorities may revoke a teacher's certificate? What certificates may the Commissioner of Education revoke? A district superintendent? Upon what grounds may the Commissioner of Education revoke a certificate? For what *one* cause may a district superintendent revoke a certificate? What is the duty of a district superintendent when charges against the moral character of a teacher have been presented to him? To what rights is a teacher thus charged entitled at a hearing? Why cannot a district superintendent revoke a certificate for deficiency in scholarship or for inability to govern or manage a school? Who is the

only authority to revoke a certificate upon these grounds? Explain fully each of two ways of disposing of an inefficient teacher.

Can a certificate be revoked for immoral conduct previous to the date of issuance of such certificate, and when such conduct was known to the official at the time he issued such certificate? What must be the character of charges preferred against a teacher? Can a teacher be placed on trial for general charges of immoral conduct? For what three causes does the education law provide teachers' certificates may be revoked? For what causes have State Superintendents held certificates may be revoked? What did Superintendent Draper hold in relation to revoking a teachers' certificate? What effect does the revocation of a teacher's certificate have upon an existing contract?

Who may contract to teach? May a minor contract? Is a minor required to complete a term for which contract has been made? Under what penalty? Is a minor subject to suit for damages for failing to complete a contract? May married women contract?

By whom are teachers employed? Can a district meeting direct what teachers shall be employed? When may the trustees of a common-school district employ a relative? Of a union free-school district? In either case may the same trustees or board employ such teachers the next ensuing year without second approval of district or board? What is the shortest period for which a trustee may employ a teacher? What is the limitation as to the period of time for which a teacher may contract? May a trustee employ a teacher for "as long as her work is satisfactory?" May the trustees of a common-school district contract for a period beyond the current school year? What remedy has a teacher employed contrary to the above provisions?

What contract should be given to each teacher? By whom should it be signed? What essential facts should such contract contain? Is a verbal contract binding? Must a contract be made at a meeting of a board? When is a contract made by one member of a board of two or more trustees binding? How often can teachers insist upon receiving their pay? Is a contract providing that the salary of a teacher shall not be paid until at the end of the term legal? If such contract is made, how often may a teacher insist upon being paid? May a legal contract be made providing a teacher shall be paid oftener than monthly?

Upon what officers may trustees issue orders in payment of teachers' salaries? Why these officers? May they issue orders for an amount greater than that held by such officers? What is the penalty for a violation of this provision of law? Under what conditions may teachers receive compensation for time during which school is closed? Give illustrations coming within these provisions. What is the teacher's remedy in cases of this kind when trustees refuse to pay for such time?

What is the law regulating the dismissal of teachers? What reasons have been held to be sufficient? What should a teacher do when dis-

missed by a board of trustees in order to be entitled to his compensation for the full period of his contract? What would be the legal effect if a teacher should acquiesce in such dismissal? When may a trustee dismiss a teacher without cause? In these cases in what two ways may a teacher seek relief? Which is preferable? What relief may be requested?

What record of attendance are teachers required to keep? How must such record be kept? Why is this an important record? Who is responsible for the safe keeping of the register? To whom should the register be delivered after a term of school is closed? What records must the teacher verify? Who may administer this oath? When must a teacher verify this record?

Who is the proper authority to prescribe rules for the government of a school? When such rules have been adopted what is the duty of the teacher in relation thereto? May trustees enter a school room and direct the enforcement of such rules?

Does the law define the school hours? What are the usual hours? May other hours be fixed? Who possesses the authority to fix these hours? If unreasonable hours are designated what is the relief? May a teacher close a school for any period without the approval of the trustees? What is the effect upon contract of closing school without such consent? Is this consent necessary to close school on a legal holiday or for attending an institute?

Is a teacher required to do the janitor work? A pupil? When may a teacher be required to do this work? Why? Is a teacher entitled to compensation for voluntarily performing this work? In what two ways may a teacher bring an action in a court to enforce payment of salary? Why are these methods objectionable? What other method may be pursued? Why is this preferable?

Is there a provision of law regulating the garb which shall be worn by teachers? When and in what case was this question passed upon by Superintendent Draper? What was his decision in the matter? When did Superintendent Skinner pass upon the question? In what case? What was his decision? What further action in this case did Superintendent Skinner take on May 15, 1897?

When a teacher under contract is unable to teach by reason of illness what should she do? Who may select a substitute teacher, if one is desired, during the illness of a teacher? Has the regular teacher any voice in the employment of such substitute? Under what conditions, in a case of this kind, may a trustee declare a teacher's contract void? What remedy has a teacher for unfair treatment in such cases?

What is the general ruling in relation to the authority of a teacher over a pupil? Define the limits of a teacher's authority. What extreme views have courts taken on this question? Are these decisions safe guides for the present? What is the modern view of courts and of

judicial departments upon this question? What has been the uniform ruling of the State Department? Explain the ruling of Superintendent Draper in relation to the authority of a teacher over a pupil during the noon recess. The right of a teacher to retain pupils after the regular school hours. How is the authority of a teacher restricted in this matter? What legal effect has the regulations of a board of trustees upon the teacher's power?

To what schools do the provisions of Section 551 of the education law relate? How did this law effect those who were employed at the time it went into operation? When did it go into operation? Name each of the three qualifications, one of which must be possessed to be employed in a school under this law?

By what authority has the subject of suspensions of pupils been considered? What has changed rulings on this subject? Who is the proper authority to suspend a pupil? May a teacher dismiss a pupil? For what period? What should a teacher do in such case? When may a teacher suspend a pupil? What is the ruling on suspending pupils between 8 and 16 years of age? What is public opinion on the theory of the establishment of schools?

Who possesses the authority to expel a pupil? How does the compulsory attendance act effect the expulsion of pupils? Why may a pupil having contagious disease be expelled? What other pupils may be expelled? How should they be proceeded against? Discuss the right of a teacher to inflict corporal punishment. What is the duty of principals in relation to fire drills? What is the penalty for violation of this law? What is the general rule controlling school papers, athletics, school societies, etc.

CHAPTER XX

INDUSTRIAL EDUCATION.

[Article 22.]

Schools Which May be Established.—Under the industrial education law the following schools may be established:

1. General industrial schools. These are also called vocational schools.

2. Trade schools.

3. Schools of agriculture, mechanic arts and home making. Under this class of schools it is intended that special courses in agriculture shall not only be established for boys but that special courses in home making shall be established for girls.

4. Part-time or continuation schools. These schools are to afford instruction in the trades and in industrial, agricultural and home-making subjects for children who are regularly and lawfully employed during a part of the day. It is intended that the school work shall be supplementary to the practical work which the children attending such schools perform in their regular employment.

5. Evening vocational schools. These schools are to afford instruction in the trades and in industrial, agricultural and home-making subjects for children regularly and lawfully employed during the day, and also for all women who are employed in any capacity during the day. The instruction in these schools is to supplement the work which those attending such schools perform during the day.

Where Such Schools May be Established.—Such schools may be established in any city of the State and in any union free-school district.

A common school district may also establish a course in agriculture, mechanic arts, and home-making when authorized by district meeting.

By Whom Established.—In a city any of such schools may be established by the board of education. If a city has no board of education such schools may be established by the officer having the management and supervision of the public school system. Such board or officer may establish as many of each of the different classes of such schools as the interests of the city require, providing the municipal authorities furnish the necessary funds therefor.

In a union free-school district the people must vote upon the

establishment of any of such schools at a district meeting. If a meeting authorizes the organization of any of such schools it becomes the duty of the board of education to establish them.

Who May Attend Such Schools.—Pupils who have completed the elementary school course or those who have not completed such course but who are fourteen years of age may enter general industrial or vocational schools.

Part-time or continuation schools are open to all children over fourteen years of age who are lawfully employed during a part of the day. Evening vocational schools are open to pupils over sixteen years of age legally employed during the day, and to all women employed in any capacity during the day.

Pupils who are sixteen years of age and who have completed either the elementary school course or a course in an industrial or vocational school or have met such other requirements as the local school authorities have prescribed may enter trade schools.

Pupils who have completed the elementary school course or those who are fourteen years of age or those who satisfy such other requirements as the local school authorities prescribe may enter agriculture schools or home making schools.

Authority Over Such Schools.—The board of education in a city or in a city not having a board of education the officer having the management and supervision of the public schools and the board of education in a union free-school district have respectively the same power and authority over the management and control of such schools and the teachers and other employees therein as such board or officer has over the other public schools and teachers under their direction. Such boards or officer are particularly charged with the power and authority:

1. To employ competent teachers or instructors.
2. To provide proper courses of study.
3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.
4. To purchase necessary machinery, tools, apparatus and supplies.

State Aid.—The amount apportioned by the Commissioner of Education to a city or district for maintaining one of these

schools is a sum equal to two-thirds the salary paid the teacher employed, but such sum shall not exceed one thousand dollars. To entitle a district or city to share in State funds it must meet the following requirements:

1. Maintain an independently organized school for a period of at least thirty-six weeks. This does not necessarily mean that such school shall be in a building separate from the regular public school building.

2. There must be an enrollment of at least fifteen pupils.

3. A course of study approved by the Commissioner of Education must be maintained.

4. One teacher must be employed who devotes his time exclusively to the work of such school.

A city or district is also entitled to receive an additional sum of one-third the salary paid to each additional teacher employed who also gives his whole time to the work of such school for a period of thirty-six weeks. When the district makes a contract with a teacher for the entire year and such teacher is employed for that period, the Commissioner of Education shall make an additional apportionment to such city or district of the sum of two hundred dollars, but the total amount apportioned in each year on account of each teacher employed shall not exceed one thousand dollars.

The law explicitly provides that manual training high schools shall not be allowed to participate in this apportionment of funds.

Pro Rata Apportionment.—If a city or district shall maintain a school or employ a teacher for a shorter period than thirty-six weeks the Commissioner of Education may in his discretion apportion to such city or district an amount pro rata to the time such school was in session or such teacher was employed.

Application of State Funds.—All funds apportioned to a city or district for the maintenance of these schools must be used exclusively for the support and maintenance of such schools in such city or district.

Annual Estimates and Appropriations.—The board of education in a city or in a city not having a board of education the officer having the management and supervision of the public schools is required to file a written itemized estimate of the expenditures for the maintenance of any of these schools and the estimated amount the city will receive from the State applicable to the support of these schools. Such estimate must

be filed with the common council of the city within thirty days after the commencement of the fiscal year of such city. The common council may give a hearing to any person so desiring and shall then adopt such estimate, after deducting therefrom the estimated amount from the State applicable to the support of such schools. The common council may by a two-thirds vote reduce the amount of an item or reject an item.

The amount of such estimate adopted by the common council shall be levied and assessed by tax upon the taxable property of the city at the time and in the manner that other taxes for school purposes are raised.

The board of education in a union free-school district which maintains one or more of these schools should include in the estimate of expenses for the ensuing school year which it submits to the annual meeting the amount required to maintain these schools after deducting the amount apportioned to the district for the support of such schools. Such amount must be raised at the same time and in the same manner that other taxes for school purposes in such district are raised.

Advisory Board.—Cities maintaining any of these schools are required to appoint an advisory board. Union free-school districts do not have such advisory board. This board is appointed by the board of education or in a city having no board of education by the officer having the management and supervision of the public schools in such city. Such advisory board shall consist of five members and shall represent the local trades, industries and occupations. When such board is first appointed the terms of two of such members shall be for one year and the terms of three shall be for two years. Thereafter as the terms of such members expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy on such board shall be filled for the remainder of the unexpired term.

The members of this board are to advise and counsel with

the members of the board of education or other officer exercising similar powers in relation to their duties to such schools.

Courses for Training Teachers.—The Commissioner of Education is authorized to approve courses in the State agriculture schools at Alfred university, St. Lawrence university and at Morrisville for the training of teachers in agriculture, mechanic arts, domestic science or home making. When such approved courses are maintained such schools are entitled to receive an apportionment from State funds on the same basis that an apportionment is made to union free-school districts for maintaining an industrial or agriculture school. The Commissioner of Education may prescribe regulations under which the graduates of such approved courses may be licensed to teach like special courses in the public schools.

REVIEW QUESTIONS

What schools may be established under the industrial education law? Where may such schools be established? By whom may they be established in a city? What action must be taken to establish them in a union free-school district? Who may attend general industrial or vocational schools? Trade schools? Schools giving agriculture or domestic economy courses? What general authority has the board of education over such schools? Name four specific duties which the law confers on a board in relation to these schools? What is the amount of State aid apportioned for the maintenance of one of these schools? Name four requirements which a city or district must satisfy to be entitled to State aid. What amount is allowed by the State for each additional teacher? Illustrate the apportionment of funds. Are manual training high schools allowed to participate in this apportionment of State funds? What pro rata allowance may be apportioned? By whom? How must State funds obtained be used? What estimate must be filed for maintenance of these schools in a city? By whom? With whom? Where? How may this estimate be reduced or an item rejected? How is the amount adopted raised? Explain how an estimate is submitted in a union free-school district and the amount raised. Where advisory boards appointed? By whom? How many members? What is the full term? How are vacancies filled? What should these members of such board represent? What are their duties? In what institutions may training courses for teachers be established? What courses? Who approves such courses? What certificates may be granted and in what manner? What allotment of State funds made?

CHAPTER XXI

COMPULSORY EDUCATION LAW

[Article 23]

The Act of 1874.—On May 11, 1874, the State legislature passed a Compulsory Education Law, which went into effect January 1, 1875. The burden of enforcing the provisions of this act was placed upon trustees. Little attention was given to the measure, and it was never enforced to any extent in any part of the State. After remaining a dead letter upon the statute books for twenty years, the act was superseded by chapter 671 of the Laws of 1894 which was incorporated in the consolidated school law and is now article 23 of the education law.*

Terms Defined.—The terms "*school authorities*" and "*person in parental relation to a child*" occur so often in this measure that a complete knowledge of their meaning is necessary, in order to have a clear understanding of the provisions of this law.

"*School Authorities*," wherever used in this act, means the trustees or boards of education, or any other officers known by any name whatever whose duties are the same as those of trustees or boards of education of a city, a union free-school district, a common-school district, or any other district created by special act of the State legislature.

"*Persons in Parental Relation to a Child.*"—This term, wherever used in this act, means those persons who have the lawful care, custody, and control of children. The term includes parents, guardians, or any other persons standing in such capacity, whether one or more.

* A law taking effect September 1, 1904, provides for the compulsory education of Indian children on the Indian reservations. This law is modeled after the general compulsory education law and is quite similar to it in all respects. See Article 37 of the education law.

***Who Shall Attend Upon Instruction.**—1. Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

(a) Each child between seven and fourteen years of age shall attend the entire time during which the school attended is in session, which period shall not be less than one hundred and sixty days of actual school.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session.

2. Every such child, residing elsewhere than in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall attend upon instruction as many days annually between the first day of October and the following June as the public school of the district in which such child resides, shall be in session during such period, as follows:

(a) Each child between eight and fourteen years of age.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service.

Attendance Upon Evening Schools.—Every boy between fourteen and sixteen years of age in a city of the first class or a city of the second class who is in possession of an employment certificate issued under the provisions of the labor law and who does not hold either a certificate of graduation from the public elementary school or a certificate of the completion of an elementary school course issued by the Commissioner of Education, or a Regents' pre-academic certificate, must attend the public

* The attendance law was amended by the Legislature of 1913 by requiring all children within the compulsory ages to attend school in the city or district in which they reside during the full time that the schools of such districts or city are in session.

evening schools of such city, or other evening schools offering an equivalent course of instruction. Such attendance must be for a period of not less than six hours each week for at least sixteen weeks each year. Attendance upon a trade school for eight hours per week for sixteen weeks in a year will also be accepted.

Where Children May Attend Upon Instruction.—This law does not prescribe that children shall attend *public schools*. It provides that they shall *attend upon instruction*. Such attendance upon instruction may, therefore, be in a public school, a private school, or at home.

Character of Instruction.—When children attend elsewhere than at a public school, the instruction given must be substantially the same as that given to children of like age in the public schools in the city or district in which such children reside. The number of hours' attendance shall be the same as that required in the public school of the district in which such children reside. No greater allowance for holidays, vacations, etc., shall be made upon such attendance than is allowed in the public schools of the district in which such children reside.

Duty of Parents, Guardians, etc.—The law makes it the duty of every parent, guardian, or other person standing in parental relation to a child or children between the ages of seven and sixteen years, to require such child or children to attend upon instruction as required by law, provided such child or children are in proper physical and mental condition to attend school.

Parent or Guardians Guilty of Misdemeanor, etc.—Any parent, guardian, or other person in parental relation to a child or children, who fails to require them to attend upon instruction as required by law is guilty of a misdemeanor. For the first offence, a fine not exceeding \$5 or imprisonment for five days may be imposed. Each subsequent offence is punishable by a fine not to exceed \$50, or by imprisonment not to exceed thirty days, or by both such fine and imprisonment. No provision having been made by this act as to what should be done

with a fine in this case, it has been held that it should go, when paid, into the county treasury.

School Record Certificate.—A school record certificate must be issued on demand to a child who upon due investigation and examination may be found to be entitled thereto or to the board, department or commissioner of health. Such certificate must certify that the child has regularly attended the public school or schools equivalent thereto, or parochial schools, for not less than 130 days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application therefor or has completed six years of the elementary course of study. The certificate must also give the date of birth and residence of the child as shown on the records of the school and the name of the child's parent, guardian or custodian.

The authority to issue such certificate is as follows:

1. In a city of the first class by a principal or the chief executive officer of a school.
2. In all other cities and in school districts having a population of 5,000 or more and employing a superintendent of schools, by the superintendent of schools only.
3. In all other school districts by the principal teacher of the school.

Evening School Certificate.—A boy who has been in attendance upon an evening school six hours each week for such number of weeks as will when taken in connection with the number of weeks such evening school will be in session during the remainder of the current or calendar year, make up a total attendance of six hours each week for sixteen weeks for such boy, is entitled to an evening school certificate. Attendance upon a trade school for eight hours per week for a period of sixteen

weeks shall also entitle a boy to such certificate. Such certificate must be issued by the school authorities or officers designated by them at least once in each month during the months such school is in session and also at the close of the term. The certificate must show the actual attendance of such boy upon the evening or trade school.

Employment Certificate and Evening School Certificate Must be Displayed.—The employer of every child between the ages of fourteen and sixteen in a city of the first class or a city of the second class must keep and must display where such child is employed the employment certificate issued such child by the health authorities and the evening school certificate issued by the school authorities.

Unlawful Employment of Children.—It is unlawful for any person, firm, or corporation to employ any child under the age of fourteen years for any purpose any part of the term during which the public schools of the district in which such child resides are in session.

It is also unlawful to employ any child between fourteen and sixteen years of age in a city of the first or second class who does not present an employment certificate duly issued under the labor law.

It is also unlawful to employ in a city of the first class or of the second class any child between fourteen and sixteen years of age in a factory, or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages, who has not an employment certificate issued under the labor law or to employ such child in any other capacity who does not at the time of employment present a school record certificate.

Penalty for Unlawful Employment.—Any person, firm, or corporation or any officer or employee acting therefor who employs any child in violation of the compulsory education law shall be guilty of a misdemeanor and the punishment for the first offense shall be a fine of not less than twenty dollars and not

more than fifty dollars; for the second offense and each offense thereafter a fine of not less than fifty dollars and not more than two hundred dollars. This fine shall be paid to the treasurer of the city or village or to the supervisor of the town in which the offence occurs, and must be added to the public school moneys of the city, village, or district in which the offence occurs.

Record of Attendance by Teachers.—The teacher of every public school is required to keep an accurate record of attendance of all children between the ages of seven and sixteen years. This record must show the attendance each day by the year, month, day of the month, and day of the week, and the number of hours thereof each day. Teachers of private schools are also required to keep such record of attendance. A record of attendance upon instruction must also be kept of children who do not attend public or private schools, but who are instructed at home.

These records must at all times be open to the inspection of an attendance officer or other person appointed by the school authorities of the city, district or Commissioner of Education. Teachers must also answer all reasonable inquiries relative to such records. A willful refusal or neglect to answer any such inquiry is a misdemeanor.

It is important that all records of attendance shall be kept with great care, as in cases taken to the courts the school register will be the principal documentary evidence as to the attendance of pupils.

Attendance Officers.—In each city, and in each union free-school district or common-school district including in whole or in part an incorporated village, the school authorities of such city or district shall appoint as many attendance officers as such board shall deem necessary for the proper enforcement of this attendance act. Such board may also at any time remove such attendance officers. Boards must also fix the compensation of these officers, define their duties, and establish rules and regulations for their guidance. The supervision and enforcement of

this act is placed in the hands of the superintendent of schools in such cities and districts.

The town board of each town must also appoint as many attendance officers for their town as, in the judgment of such board, shall be necessary for the proper enforcement of this act. The jurisdiction of such officers extends over all districts except those mentioned in the preceding paragraph. A town board in appointing attendance officers can not limit the jurisdiction of such officers to specific school districts. The town board shall fix the compensation of such officers, which shall be a town charge.

Attendance officers appointed by town boards must be approved by the district superintendent having jurisdiction. A district superintendent may also remove an attendance officer.

A trustee can legally hold the position of attendance officer. The Commissioner of Education has ruled that as the act is silent as to the term of office of town attendance officers, town boards must make such appointments annually on or before the first of October.

If non-resident pupils are tardy or absent, school authorities should report the same to the school and attendance officers of the district in which such non-resident pupils reside. All pupils are subject to the authority of the school officers and attendance officers of the district in which *they reside*.

Arrest of Truants.—Attendance officers have authority to arrest at any time, without warrant, any child between seven and sixteen years of age who is then a truant from instruction upon which such child is lawfully required to attend.

In case any child is thus arrested, the attendance officer must forthwith take such child to his teacher; or in case the child is an habitual truant, the officer must take him before a police magistrate, who may commit him to a truant school or to some similar institution. After each arrest it is the duty of the attendance officer to report the disposition made by him of the

child, to the school authorities of the district where such child was required to attend school.

A truant officer in the performance of his duty has the authority to enter during business hours a factory, mercantile or other establishment and examine the employment certificates and registry of children employed therein.

Truant Schools.—The school authorities of any city or school district may establish schools or set apart separate rooms for children who are habitual truants, or who are insubordinate while in attendance, or who are irregular in their attendance; and they may provide for the confinement, maintenance, and instruction of such children in such schools. If the school authorities of any city or school district do not establish a truant school, they may make a contract with any other city or school district having a truant school, for the confinement, maintenance, and instruction of their truant children.

Commitment.—When the persons in parental relation to a child give their written consent, the school authorities or the superintendent of schools may commit such child to a truant school; or in a private school, an orphans' home, or similar institution controlled by persons of the same religious faith as the persons in parental relation to the child, for a period not to exceed two years. No child can be committed after he is sixteen years of age.

If the persons in parental relation to the child refuse their consent, the child may be proceeded against as a disorderly person, and, upon conviction, must be sentenced to be confined and maintained for the remainder of the current school year either in a truant school or in a private school, an orphans' home, or similar institution.

No persons convicted of crimes or misdemeanors other than truancy can be committed to any truant school.

No truant can be committed to a penal institution.

Expenses of Commitments—Where Chargeable.—The city or district employing a superintendent of schools must pay the

expense attending the commitment and cost of maintenance of any child committed by them to a truant school.

In all other cases such expense and costs are a county charge.

Industrial Training.—In every truant school established industrial training must be furnished.

Excuses for Absence and Tardiness Required.—The State Commissioner of Education has ruled that the person in parental relation to every child subject to the provisions of the compulsory attendance law may be required to furnish a satisfactory explanation for absence or tardiness, and has held that sickness of the child, sickness in the family requiring the services of the child for a day or two until other help may be obtained, severe storm or impassable roads, contagious disease in the family or the community where child resides, days set apart for religious observance, or death in the family, shall be deemed the only ordinary excuse for such absence or tardiness.

Assistants.—The Commissioner of Education has authority to appoint as many inspectors for the enforcement of this law as he shall deem necessary provided the legislature has made provision for the payment of their salaries. The attendance division has general charge of this work.

Withholding State Funds.—The Commissioner of Education has authority to withhold one-half of the public school money from any city or district which willfully omits or refuses to enforce the provisions of this act. Before this power is exercised, due notice must be given to such city or school district authorities. When such city or district complies, within a period of twelve months after such money was withheld with any provision of law which may not have been enforced, and for non-compliance with which any money has been withheld, the Commissioner of Education shall pay over to the authorities of such city or district the amount so withheld.

EMPLOYMENT OF CHILDREN IN STREETS

[Article 3 of the Labor Law]

Authority to Enforce.—The police officers, and the attendance officers appointed by the board of education, in cities of the first and second class are peace officers under this law and are charged with the duty of the enforcement of such law.

Prohibited Employment of Children in Street Trades.—No boy under ten and no girl under sixteen years of age has a legal right in any city of the first or second class to sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place. No boy under fourteen years of age has a legal right to sell or expose or offer for sale such articles unless he has received a permit and badge authorizing him to engage in such employment. No boy having such badge can be employed in such business before six o'clock in the morning or after ten o'clock in the evening.

Issuance of Permit and Badge.—Such permit and badge are issued by the superintendent of schools of the city or school district in which such child resides, or by such other officer of the board of education as such board may designate. The application for such permit and badge must be made by the parent, guardian or other person having the custody of the child desiring it. If the child has no such relative the application must be made by the child's next friend, being an adult. Before an authorized officer issues such badge he must have received, examined and placed on file in his office satisfactory proof that such boy is of the age of ten years or upwards. He must also have a written statement of the principal or chief executive officer of the school which such boy is attending, that he is an attendant at such school, that he is of the normal development of a boy of his age and physically fit for such employment and that he approves of the granting of such permit and badge to such boy.

List of Boys Receiving Permit and Badge.—Principals and chief executive officers of schools must keep a complete list of

all children in their schools to whom a permit and badge have been issued.

Contents of Permit and Badge.—The permit must show the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend as the case may be. It must describe the color of hair and eyes, the height and weight, and any distinguishing facial mark of the boy receiving it. It must also state that the preliminary papers requisite to its issuance have been duly examined and filed and that the boy named in such permit has appeared before the officer who issued it. The badge shall bear on its face a number corresponding to the number of the permit and the name of the child. The boy must write his name on the reverse side of the permit and badge in the presence of the officer issuing it.

Regulations Concerning Badge and Permit.—The badge must be worn conspicuously at all times by the boy while so working and he shall exhibit the same upon demand at any time to any police or attendance officer. No badge or permit may be transferred. All permits and badges expire annually upon the first day of January. The color of the badge must be changed each year. No permit or badge is valid except during the period in which the proof and written statement requisite to its issuance shall remain on file nor are they authority beyond the period fixed therein for their duration.

REVIEW QUESTIONS

When was the present compulsory attendance law enacted? What compulsory act preceded this? Why was it not enforced? Define "school authorities," "persons in parental relation to a child."

Into how many classes in respect to age may children be arranged who are required to attend upon instruction? Define each class. Why is the term "attend upon instruction" used instead of "attend school?" What period of instruction is required of each class? What must be the character of the attendance? When must children between 14 and 16 years of age attend upon instruction? Must the attendance be at a public school? Where may it be? Where children are instructed elsewhere than

at a public school, what must be the character of such instruction? The daily period of instruction? What about allowance of holidays, etc.

What is the duty of persons in parental authority? When is a parent or guardian guilty of a misdemeanor? What is the penalty for the first offence? Each subsequent offence? When fines are collected to whom should they be paid? What must a school record certificate show? By whom is it issued? When is a boy entitled to an evening school certificate? By whom are such certificates issued? How must such certificate be displaced? When is it unlawful to employ children under 14 years of age? By whom must a certificate of attendance be signed? What is the penalty for unlawful employment of children? What disposition is made of a fine thus collected?

What record of attendance must teachers keep? What must such record show? Are the teachers of private schools and those employed in homes of children required to keep such record? To whom should this record be open to inspection? What is the penalty imposed upon teachers who refuse to answer reasonable inquiries relative to such records?

For what school districts do the school authorities appoint attendance officers? How many may they appoint? Who determines the compensation of such officers? By whom may they be removed? Who is charged with the duty of enforcing the law in such districts or cities?

For what districts may town boards appoint attendance officers? How many? Who fixes their compensation? What is their jurisdiction? May town boards in appointing such officers limit their jurisdiction to certain school districts? Are trustees eligible to hold this office? Who may remove these officers from office? What authority have attendance officers to arrest truants? When a truant is arrested what must the officer do with such truant? After such arrest what report must the attendance officer make? To whom? How may truant schools be established? What three classes of pupils may be confined in such schools? What power have school authorities to contract for the confinement and maintenance of truants? With the written consent of the parents or guardian, where may a truant be committed? When the person in parental authority refuses to consent, what action should be taken? What persons cannot be committed to truant schools? When is the expense of such commitment a city or village charge? When a county charge? What instruction must be given in all truant schools?

What is the ruling of the Commissioner of Education as to what constitutes a satisfactory excuse for absence or tardiness? What help may the Commissioner of Education employ to assist in enforcing this law? When may the Commissioner of Education withhold public money from a district? What portion may be withheld? What action must be taken first? When must the Commissioner of Education pay over moneys thus withheld?

Who are charged with the duty of enforcing the law relative to employment of newsboys? What are the prohibitive ages of employment? On what conditions may a boy between 10 and 14 years of age be employed? Between what hours can he not be employed? By whom are permits and badges issued? By whom must the application be made? What written statement must be first obtained? Who is required to keep a list of boys receiving them? State fully contents which permit must contain? Badge? For what time are permit and badge valid? On what date do they expire? State fully the other regulations concerning them.

CHAPTER XXII

SCHOOL CENSUS

{Article 24}

Census Board.—The mayor, the superintendent of schools and the police commissioner, or the officer performing the duties similar to those of a police commissioner, constitute a permanent census board in each city of the first class. The cities of the first class are New York, Buffalo and Rochester.

Officers of Such Board.—The mayor is the chairman of such board. The board also has the power to appoint a secretary and such clerks and other employees as may be necessary and to fix their salaries.

Census Required.—The census board has the power to prescribe regulations to make effective the census law and under such regulations the police commissioners are required to cause a census to be taken in their respective cities during the month of October, 1909. The census boards are required to obtain through the police force the residences and employments of all persons between the ages of four and eighteen years and to report thereon from time to time to the school authorities of their respective cities. After the census of October, 1909, was taken it was the duty of the census board to cause the same to be amended from day to day. It is the duty of the police to report daily precinct by precinct, changes of residence which occur among the children between the ages of four and eighteen. The police should likewise report daily the names and addresses of all children between such ages who move into the city. The census board should therefore always have on file in its office a complete list of the names, addresses, occupations and persons in parental relation, of all persons between the ages of four and

eighteen. While the law makes it the duty of the police to make daily reports and to take the permanent census required under the law, the census board may employ such enumerators or other help as may be necessary to carry into effect the provisions of the law. It should also be understood that while parents are required to report certain data to the police a failure on the part of parents to make such report does not relieve the police or the census board from obtaining this data. The burden of the enforcement of this law is placed primarily upon the census board, and also upon the police, and this board and the police must obtain all information necessary to keep the census properly revised from day to day.

Parents Required to Report.—A person in parental relation to a child is required to report at the police station house of the precinct in which he resides the following:

1. The name of each child, its residence, the name of the person in parental relation thereto and the name and location of the school such child is to attend at least two weeks before such child becomes of the compulsory school age.

2. The facts relating to the removal of a child of compulsory school age from one school to another, for any cause whatever, and of a child going to work in accordance with the provisions of the labor law.

3. The change of residence of a child from one police precinct to another and such other facts relating to such child as required by the two previous subdivisions.

4. The residence of a child between four and eighteen who moves into such city and such other facts relating thereto as the census board may require.

School Census in Cities Not of the First Class.—A city not of the first class may establish a permanent census board in accordance with the provisions above outlined for such board in a city of the first class. If such board is formed in a city of another class the powers and duties of such board and of the

police and the organization of such board are the same as in a city of the first class.

If such cities did not organize a census board it was the duty of the school authorities in such cities to cause a census to be taken in October, 1909, and they should require one taken every fourth year thereafter. The information required under such census is the same as that required in cities of the first class.

Cities which are not of the first class and which did not organize a permanent census board in 1909 may at any time determine to organize such board. The officers constituting such board have the power to determine on its organization.

School Census in School Districts.—The board of trustees of every school district is required to take a census annually on the thirtieth day of August, of all children between the ages of five and eighteen years. The information required is the same as that required of cities.

Withhold Information or Giving False Information.—A parent, guardian, or other person having the control of a child between the ages of four and eighteen years who withholds or refuses to give information in relation to such child as required under the census law or a parent, guardian or other person in custody of a child who gives false information in relation thereto is liable to a fine not to exceed twenty dollars and imprisonment not to exceed thirty days.

Expenses of Census.—The expense involved in taking a census required under this law is a charge upon the city or school district for which it is taken. It is the duty of municipal authorities to appropriate or set apart sufficient funds for this work. The census board in a city should file annually with the proper municipal authorities an estimate of the amount required for such work. A board of trustees should include in its annual budget a sufficient amount for this purpose.

Before any moneys shall be paid for services in taking a census a certificate must be obtained from the Commissioner of Education to the effect that such census has been satisfactorily taken.

REVIEW QUESTIONS

Who constitute a census board? In what cities must they be organized? Name all of such cities in the State. Who is chairman of the census board? What other officers does such board have? How are such officers chosen? Who fixes their salaries? What regulations may such board prescribe? In what year was a complete census to be taken? What officer was charged with this duty? What information is the census board required to obtain? Through what officers is this information obtained? To whom must the census board make reports? Explain how the census of 1909 is to be amended. What is the duty of the police in this respect? What should the census office always contain? Must the census board rely solely upon the police to do the work required? If parents fail to perform their duty what is the duty of the census board?

To whom must parents make reports? State the four points upon which they must report. Upon what cities is the organization of a census board discretionary? How is the organization of such board determined? How is the board constituted? What are the powers and duties of such board? If such board is not organized in these cities by whom is a census in such cities taken? When was the first census required? How often thereafter? What information must be obtained? When may these cities determine to organize a census board?

Who are required to take a census in school districts? How often? On what date? What information must be obtained? What penalty is prescribed for refusing to give or withholding any information required, or for giving false information? Who pays the expenses incurred in taking this census? How are the funds obtained in a city? In a school district? What certificate must be obtained before any of such expenses are paid by local authorities?

CHAPTER XXIII

STATE SCHOLARSHIP IN CORNELL UNIVERSITY AND STATE SCHOLARSHIPS UNDER THE LAW OF 1913.

[Article 40]

Origin.—In 1862 Congress passed the National Land Grant Act, under the terms of which each State received thirty thousand acres of public land owned by the United States, for each representative that she had in Congress. This land was donated by the national government to the States and Territories of the Union for the purpose of establishing colleges for the benefit of agriculture and the mechanic arts. New York State received by this Act nine hundred ninety thousand acres of land. The State legislature of 1863 enacted a law providing that the revenue derived from the sale of this land should be given, under certain conditions, to the authorities of the People's College at Havana. The authorities of this college failed to meet the conditions prescribed by the Act of 1863, and the legislature of 1865 provided that the revenue derived from the sale of this land should be given to the authorities of Cornell University. This Act of 1865 provided, among other conditions, that Ezra Cornell should contribute unreservedly \$500,000 to the authorities of Cornell University, and that the University should receive annually one State scholar free of tuition for each assembly district in the State. As Mr. Cornell contributed the amount specified, the revenue derived from the sale of this land was donated to the University. The amount realized by the State from the sale of this land was \$688,576.12. The legislature of 1895 enacted a law providing that this money should be placed under the control of the State, and that the State should pay annually to the trustees of Cornell University five per cent upon this fund. The University, therefore, receives annually \$34,-

428.80. The State scholars in the University who receive free tuition include about one-seventh of the entire number of students attending the University, and the University receives from the State only \$34,428.80, while the entire cost of maintaining the University is about one million dollars annually.

Number of Scholarships.—The act creating State scholarships provided that State scholarships should be awarded annually for each assembly district in the State. At this time there are 150 assembly districts, and this is the basis on which appointments are now made. Each scholarship is valid for four years, and as 150 appointments are made each year, the State has 600 State scholars in Cornell University at all times.

How Awarded.—Appointments to State scholarships are made by the Commissioner of Education, upon the result of competitive examinations held for that purpose. Albany county has three assembly districts and is entitled to three State scholarships. The names of candidates who take the examination for this county are arranged in the order of their merit, which is determined by their standing in the examination. The first three on the list are assigned to the scholarships for Albany county, irrespective of the assembly districts in which they reside. The same course is pursued in assigning appointments to all other counties. No person can be considered in awarding these scholarships who did not attend the required competitive examination.

Competitive Examinations.—These examinations are held on the first Saturday in June of each year at the county seat of each county in the State. The district superintendents and the city superintendents jointly conduct the examination for their respective counties. These examinations are under the supervision of the Commissioner of Education, and the questions used in such examinations are prepared under his direction. The subjects in which candidates are examined are designated by the president of Cornell University. These may change from year to year, but the general scope of the examination for each

year may be obtained by writing the Education Department for the annual circular issued from that office.

Eligibility.—To be eligible to enter a competitive examination candidates must be at least sixteen years of age, must be residents of the State, and must have been in attendance upon some public school or academy of the State for at least six months during the year immediately preceding the date on which such competitive examination is held. Attendance upon an institution registered as an academy under the regulations of the University of the State of New York meets the requirements of the law. Candidates must attend examinations in the county in which they actually reside. Students of either sex are eligible to these scholarships.

Entrance Examinations.—All candidates who receive appointments but who do not hold credentials to admit them to the University, are required to take the regular entrance examinations at the University. A failure to take this examination or to obtain a standing therein satisfactory to the University authorities forfeits all right to the scholarship.

Vacancies.—If a vacancy occurs in a State scholarship, it is the duty of the president of the University to notify the Commissioner of Education of such vacancy. The Commissioner of Education should then assign to such vacant scholarship the person standing highest on the eligible list of candidates for the county to which such scholarship belongs. If there should be no person on the eligible list for such county, then the Commissioner of Education should appoint the person standing highest on the eligible list which is made up from all the counties of the State. The person receiving such appointment is entitled to the privileges of such scholarship for the remaining period of the four years for which it was granted.

Scholarship Privileges.—The holder of a State scholarship is entitled to free instruction in any department of the University for a period of four years.

Leave of Absence.—If a State scholar shows to the satisfaction of the president of the University that it is necessary for him to leave the University to earn funds with which to meet his living expenses while attending the University, the president may, in his discretion, grant such leave of absence, and such State scholar will then be allowed six years from the date of entrance in the University in which to complete the course.

THE 1913 SCHOLARSHIP LAW

The Legislature of 1913 enacted a law providing for the appointment of 750 State scholars annually. These appointments are made on the basis of five State scholars for each assembly district in a county. A county having three assembly districts is entitled to fifteen scholarships. These appointments must be made on the record made by students in Regents' examinations who have earned college entrance diplomas. The student in a county having the highest average rating in these examinations is entitled to the first scholarship, and the other appointments are made in the order of the merit of the students as determined by their standing in the examinations for such diploma.

As 750 scholars are appointed annually, and the scholarships are valid for four years, there will ultimately be 3000 of these State scholars.

The student receiving an appointment as a State scholar is entitled to enter any approved college or university in the State, and may determine for himself the institution which he desires to attend.

The State pays annually to each of these State scholars \$100 in semi-annual payments of \$50 each. (See Chap. 292, Laws 1913.)

REVIEW QUESTIONS

Explain fully the origin of State scholarships in Cornell University. How many scholarships are awarded each year? By whom are appointments to these scholarships made? Explain fully how they are made. Explain fully how the competitive examinations are conducted. Who are eligible to enter these examinations? Where must candidates attend examinations? What is the ruling in relation to State scholars taking entrance examinations at the University? Explain how vacancies are filled in the University. What privileges does a scholarship confer? By whom may a leave of absence be granted to a State scholar? For what purpose?

CHAPTER XXIV.

STATE NORMAL INSTITUTIONS

[Article 32]

Historical Sketch.—There are ten State normal schools in the State and one State normal college. Their location and the dates on which they were established and opened are as follows:

LOCATION	Estab- lished	Opened
Albany State Normal College.....	1844	1844
Brockport	1866	1867
Buffalo	1867	1871
Cortland	1866	1869
Fredonia	1866	1868
Geneseo	1867	1871
New Paltz	1885	1886
Oneonta	1887	1889
Oswego	1863	1863
Plattsburg	1889	1890
Potsdam	1866	1869

The first school at Albany was simply an experiment and was only temporarily established. It was made a permanent institution in 1848. In 1890, this school was changed to the State Normal College. Since the establishment of these institutions about 26,000 students have been graduated therefrom. They are now attended by about 7,000 pupils annually and maintained at an annual expense of about one-half million dollars. The value of the property of these schools is more than \$3,500,000.

The Object.—The acts creating these schools state their establishment to be “for the instruction and practice of teachers of common schools in the science of education and the art of teaching.”

How Established.—Normal schools are established by special act of the State legislature. There is no general law providing for their creation.

How Governed.—The Commissioner of Education has general supervision of these schools. Each school, however, has a local board, whose members are appointed for life by the Commissioner of Education. As vacancies occur, either by death or resignation, they are filled by appointment by the Commissioner of Education. The local board must consist of not less than three and not more than thirteen members. (The State Normal College board of trustees consists of five members.) The number on each board varies, ranging from six to thirteen. Members of a local board can be removed by the joint action of the Commissioner of Education and the Chancellor of the University of the State of New York. A majority of the members of a local board constitutes a quorum for the transaction of business.

Powers and Duties of Local Board.—1. The local board is required to establish rules and regulations for the general government of the school under its direction subject to the approval of the Commissioner of Education.

2. The local board is required to make an annual report in such form and giving such information as the Commissioner of Education shall direct. This report is submitted to the State legislature through the Commissioner of Education.

3. Local boards are the custodians of the buildings and grounds of their respective schools and of all other property of the State pertaining thereto.

4. Local boards are authorized to appoint special policemen to protect the buildings and grounds and to preserve peace. These officers have power to arrest offenders.

5. It is the duty of local boards to supply these schools with necessary equipments and supplies.

6. Local boards may, with the approval of the Commissioner of Education, accept for the State money or property of any

kind to be used for the general support of these schools as may be prescribed by the instrument making the gift.

7. Local boards employ and contract with the teachers employed in their respective schools.

8. A local board has power to dismiss pupils.

Principal.—The principal is the chief executive officer for the board and has the immediate supervision of all work pertaining to the management of the school and the instruction given therein.

Powers and Duties of Commissioner of Education.—The Commissioner of Education is directed by law to appoint members of the local board, he determines the number of teachers to be employed and the amount of compensation to be paid them, he approves the appointment of teachers, and also prescribes the courses of study.

He is also empowered to prescribe the conditions upon which pupils will be admitted to these schools, and to determine the number which may be admitted to each institution.

Admission of Pupils.—To be admitted to a normal school, candidates must be at least sixteen years of age and must receive an appointment from the district superintendent of the supervisory district or from the superintendent of schools of the city in which such candidates reside. Candidates must present a diploma of graduation from the four-years course prescribed by the Commissioner of Education for admission to normal schools and city training schools under the provisions of section 551 of the education law.

Candidates, twenty-one years of age, and who have had two years of high school work, or its equivalent, and in addition thereto have taught two years, will be admitted to the normal school on the understanding that they must complete the high school course in addition to the professional course before they shall be graduated.

Graduates of training classes who entered the class upon an academic diploma and who have taught one year since graduation from the training class may complete the professional course in

the normal school in one year if they possess the required aptitude for training.

Privileges of Pupils.—Residents of the State regularly admitted to a normal school can not be charged tuition and can not be charged for the use of books or apparatus. Pupils, however, are chargeable for books lost by them or damaged while in their possession.

Dismissal of Pupils.—The local board may dismiss pupils for disorderly or immoral conduct or for neglect or inability to perform their work, or for a failure to comply with the regulations of the school upon which they are in attendance.

Non-Resident Pupils.—Pupils who are not residents of the State may be admitted to these schools upon paying such tuition as the Commissioner of Education shall prescribe, which is \$20 per term.

Indian Pupils.—The State Treasurer is authorized to pay on the warrant of the State Comptroller to the Commissioner of Education such sum as may be appropriated for the support and education of Indian youth in the State normal institutions.

These pupils must be selected by the Commissioner of Education from the several Indian tribes in the State so as to distribute such selections equitably among these tribes. They must not be under sixteen years of age, and they are not entitled to more than three years' education in such school. The local board is made the guardian of such pupils while they are in attendance upon such institution, and such board is authorized to pay the necessary expenses of such pupils, from the funds provided for such purpose.

Courses of Study.—Each of the normal schools has a two-years' professional course. The course is practically the same in all the schools. Some also have a special kindergarten and primary course. These courses are prescribed by the Commissioner of Education. Other special courses are now being planned for these schools.

Diplomas.—The Commissioner of Education prepares diplomas, which are granted to those who complete a course of study in these institutions. These diplomas are signed by the Commissioner of Education, the chairman and secretary of the local board, and the principal of the school. State Normal College diplomas are signed by the Commissioner of Education, the President of the college, and all members of the board of trustees. Such diplomas entitle their holders to teach for life in the public schools of the State. They may be revoked by the Commissioner of Education for cause. The diplomas show the course of study which was pursued.

Application of Tuition.—Local boards could formerly expend the tuition received from any department of their respective schools for apparatus, furniture, repairs, insurance, improvements upon the grounds or buildings, or for ordinary current expenses. It is now paid into the State treasury but is appropriated by the legislature to the schools which collected it.

Application of Insurance Money.—Whenever money is realized from insurance of the property or buildings of normal schools, such money must be deposited by the company in which such property is insured in a bank designated by the State Comptroller. It must be placed to the credit of the local board of such school and kept as a separate fund. Such money may be immediately used by the local board of the school to which it belongs upon the approval of the Commissioner of Education, to repair or replace in whole or in part the property damaged or destroyed.

Local Authorities May Insure Normal School Property.—The authorities of each city or village in which a State normal school is located may insure the real and personal property of such school when the State refuses to keep adequate insurance on such property. Such insurance must be in the name of the State, and any money obtained therefrom must be used to repair or replace the property damaged or destroyed.

Academic Departments.—In some normal schools, academic departments are maintained by the State for the benefit of the localities in which such normal schools are located. Children of school age residing within the bounds of such localities are entitled to attend such schools. This is done in consideration of certain privileges conferred upon such school by these localities at the time such normal schools were created. Non-resident pupils can not lawfully be permitted to attend the academic departments of these schools.

Removal of Teachers.—The principal and any teacher employed in a normal school may be removed upon joint action of the local board and the Commissioner of Education. The initiatory steps in these proceedings should be taken by the local board. In June, 1880, Superintendent Gilmour demanded the resignation of Principal Hoose, of the Cortland normal school. Principal Hoose refused to resign. In July, Superintendent Gilmour withdrew his approval of the appointment of Principal Hoose and appointed another principal, whom the local board would not approve. The case was taken to the courts, and in April, 1882, the Court of Appeals decided the case in favor of Principal Hoose and the local board, on the ground that joint action of the board and Superintendent was necessary to remove the principal, and that the Superintendent did not possess the power of removal.

The Court of Claims in 1884, awarded Dr. Hoose payment in full for his salary, except for the time he was elsewhere employed, between the beginning of the litigation and the decision of the Court of Appeals.

Special Powers for Fredonia School.—The practice department of the Fredonia normal school is treated as a union free-school district.

Jamaica School.—This school was established in 1893 and opened in 1897. It was transferred by chapter 524, Laws of 1905, to the control of New York city.

RETIREMENT OF TEACHERS

[Article 43a]

General Statement.—The legislature of 1910 enacted a civil service retirement law. It is the first law of this character enacted in the history of the State. It applies to teachers employed for a certain period of time in a college, university, school or institution maintained and supported by the State. It was more particularly enacted however in the interests of the teachers employed in the State normal schools. Teachers are therefore the first of the civil employees of the State to receive recognition under a retirement fund.

Who May Retire or be Retired.—A person who has taught in the aggregate thirty years either in this State or elsewhere and for ten years immediately preceding application for retirement taught in one of the State institutions above described and *must* on his request be retired. Service in teachers institutes may be counted the same as teaching.

2. A teacher of like age and experience who does not make application for retirement *may* on the order of the Commissioner of Education be retired.

3. A teacher of like experience without qualification as to age who has become incapacitated physically or mentally and such fact is certified by a majority of the board or governing body in charge of the school or institution in which he is employed *may* on the order of the Commissioner of Education be retired.

4. A teacher who has taught ten years in one of these institutions and who has taught an aggregate period of twenty years and who has become physically or mentally incapacitated and such fact is certified by the board in charge of the institution in which he is teaching *may* on the order of the Commissioner of Education be retired.

Retirement Certificate.—A teacher who is entitled to retire or to be retired under either of the first two provisions defined

in the preceding paragraph should execute an affidavit setting forth the number of years of employment, the places where employed and the salary received at the time. Such affidavit should be filed with the Commissioner of Education. The Commissioner of Education if satisfied that the affidavit is truthful should issue a certificate to such teacher to the effect that he has been retired from active service.

If a teacher is retired on the order of the Commissioner of Education he should also issue to such person a retirement certificate.

Amount to be Paid to Retired Teacher.—A teacher retired under this law is entitled to be paid one-half his salary at the time of retirement but the amount paid shall in no case exceed \$1,000. In no case shall the amount be less than \$300.

Time of Payment.—The law provides that payment shall be made quarterly commencing with the first quarter after the date of the issuance of the retirement certificate.

REVIEW QUESTIONS

How many normal schools are there in the State? When was the first one established? Where? When was it made permanent? What change was made in this school in 1890? How many persons have been graduated from these institutions? What is the annual attendance? What does it cost annually to maintain them? What is the value of their property? What is the object of these institutions? How are they established?

Who has general supervision of these schools? What local authority has supervision of these schools? How is the local board chosen? For what period? Who is the executive officer of the board? Of how many members does the local board consist? How many members of this board be removed? What is the board in charge of the State normal college called? Of how many members does it consist? What are the duties of the local board in relation to establishing regulations? In submitting reports to legislature? In caring for buildings and other property? In appointing special policemen? In supplying schools with equipments? In accepting gifts made to the schools for the State? In employing teachers? In dismissing teachers? State fully the powers and duties of the Commissioner of Education.

Who may be admitted to these schools? By whom are appointments

made? By whom approved? What certificates of proficiency are accepted?

To what privileges are pupils entitled? Who may dismiss pupils? For what reasons? Upon what conditions are non-resident pupils admitted? Who are *non-resident* pupils? What amount is the State Comptroller authorized to pay each year for the support and education of Indian youth in these schools? How many of such youth may be educated from such fund? How are they chosen? What must be their age? How many years may they attend these schools? Who is made guardian of these pupils? What amount may be expended each year upon these pupils?

What courses of study do these schools have? Are these courses uniform? By whom are they prescribed? Who receive diplomas from these schools? By whom are such diplomas prepared? By whom are they signed? What privilege do such diplomas confer? For what may they be revoked?

How may tuition money be expended? Where must money derived from insurance be deposited? What application may be made of such money? What are academic departments in these schools? How were they created? Who may attend these departments? Can non-resident pupils be admitted? How may a teacher be removed? Give details of the case relating to the removal of Principal Hoose, of Cortland.

What was the first law authorizing the retirement of State civil employees enacted in this State? To whom does it apply? Name the various conditions under which such teachers may retire or be retired. By whom is a retirement certificate issued? When? What amount is to be paid a retired teacher? The maximum to a supervising official or a principal? To a teacher? The minimum amount? When is it payable?

CHAPTER XXV

SCHOOLS FOR COLORED CHILDREN, ORPHAN SCHOOLS, INDIAN SCHOOLS, DEAF AND DUMB AND BLIND INSTITUTIONS

SCHOOLS FOR COLORED CHILDREN

[Article 36]

Where Established.—Previous to September 1, 1900, the school authorities of any city or of any incorporated village, the schools of which were organized under the union free-school law or under special acts, possessed the power to establish schools for colored children. The legislature of 1900 amended the law relating to colored schools by repealing section 28 of title 15 of the Consolidated School Law. The school authorities of the cities and incorporated villages of the State are, therefore, prohibited from establishing schools for colored children. This repealing act also contained a provision that no person should be refused admission into or be excluded from any public school in the State on account of race or color.

The only school districts, therefore, in which schools for colored children may be established are union free-school districts outside of cities and incorporated villages, and common-school districts outside of cities and incorporated villages, which are organized under special acts. Schools for colored children may be organized in these districts when the inhabitants so direct by a resolution at an annual meeting or special meeting regularly called for that purpose.

Children Who May Attend.—When a separate school is established for colored children in any district, the colored children residents of such district between the ages of five and twenty-one years are entitled to attend such separate school.

How Supported.—When separate colored schools are established in any district such schools must be supported in the same manner and to the same extent that schools are supported in such districts for white children.

Equipment of Schools.—Colored schools are subject to the same rules and regulations that control white schools, and the facilities for instruction in colored schools must be equal to those in the schools for white children.

Teachers.—The teachers employed in colored schools must be legally qualified teachers.

ORPHAN SCHOOLS

[Article 35]

The schools of all the incorporated orphan asylum societies in this State, except those in the city of New York, are subject to the rules and regulations of the common schools of the city or district in which such societies are located, but such schools are under the immediate management and direction of such societies.

These schools are entitled to participate in the apportionment of the school moneys in the same manner and to the same extent, in proportion to the number of children educated therein, as are the common schools in the districts in which such societies are located.

The presiding officer of each asylum maintaining a school must make an annual report to the Commissioner of Education, showing the number of pupils therein, the studies pursued by them, the time devoted thereto, and the manner in which public funds apportioned it have been expended.

INDIAN SCHOOLS

[Article 37]

General Statement.—There are eight Indian reservations in this State. On these reservations thirty-three Indian schools are

maintained, in which are employed thirty-six teachers. The following tables gives important information relative to these reservations for 1912:

Name of Reservation	County of Location	No. of Pupils of school age
Allegany.....	Allegany.	127
Cattaraugus.....	Cattaraugus and Erie.	140
Onondaga.....	Onondaga.	98
St. Regis.....	Franklin and St. Lawrence....	185
Shinnecock.....	Suffolk.	30
Tonawanda.....	Erie.	87
Tuscarora.....	Niagara.	41
		<hr/> 708

Duty of Commissioner of Education.—The Commissioner of Education is charged with general supervision of the Indian schools. He should ascertain the needs and character of the education of the various Indian bands in the State, and provide schools in such places as he deems necessary. He employs all necessary teachers, truant officers, and other assistants and employees and fixes their salaries. He erects school buildings when funds are appropriated therefor.

Co-operation of Indians.—The Commissioner of Education is charged with obtaining the co-operation of the several bands of Indians in supporting the schools established for their benefit. He is required to visit their reservations, or delegate some representative to visit them, to discuss means of improvement and education with them in public assembly and to induce them, if possible, to donate land, material, labor, and public funds for the erection of suitable buildings.

Protection to Title.—When any of the Indian land shall have been given for occupancy or use for school purposes the right or title of Indians to such land should be protected. The right of the State to remove or otherwise dispose of all improvements

made at the expense of the State should be reserved in all contracts.

Annual Appropriation.—For the purpose of executing the provisions of law relating to Indian schools, the legislature makes an annual appropriation. This money is paid by the State Treasurer on the warrant of the Comptroller to the order of the Commissioner of Education, from time to time, as such money is needed. Special appropriations from the general fund are sometimes made by the legislature for repairs and improvements on the school property of reservations.

Vouchers and Receipts.—The Commissioner of Education is required to file in his office vouchers and receipts for all expenditures made under the provisions of this chapter.

Report to Legislature.—The Commissioner of Education is required to report annually to the legislature the condition of Indian schools.

DEAF AND DUMB AND BLIND INSTITUTIONS

[Article 38]

Duty of Commissioner of Education.—All institutions for the instruction of the deaf and dumb and blind, and all other similar institutions incorporated under the laws of this State are under the inspection and supervision of the Commissioner of Education. He should ascertain the expenditures of each institution, the system of instruction pursued therein, and the condition of the lodgings and accommodations of the pupils.

He should ascertain by comparing these institutions with similar institutions whether improvements in instruction and discipline can be made. For this purpose he may appoint persons to visit these institutions. He should also suggest to the directors of these institutions and to the State legislature those improvements and changes which in his judgment are deemed wise.

Annual Report.—The Commissioner of Education is required to make an annual report to the State legislature on all matters.

relating to these institutions; particularly to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.

Eligibility of Appointments of Deaf and Dumb Persons.

—A deaf and dumb person to receive an appointment as a State pupil to an institution for the deaf and dumb must possess the following qualifications: Such person must be upwards of twelve years of age and have been a resident of the State for one year immediately preceding his or her application for admission to such institution; or, if a minor, the parent or parents, or if an orphan, the nearest friend must have been a resident of this State for one year immediately preceding the application for an appointment as a State pupil.

Eligibility of Blind Persons for Appointment as State Pupils.—All blind persons of suitable age (no specific age required by law) who possess the same qualifications in regard to residence as deaf and dumb candidates, may be appointed State pupils as follows:

All those who are residents of Nassau, New York, Kings, Queens, Suffolk, Richmond, Westchester, Putnam, and Rockland shall be appointed to the Institution for the Blind in New York city. Those residing in all other counties in the State should be appointed to the Batavia institution.

By Whom Appointments are Made.—Appointments of State pupils to any of these institutions, except the Institution for the Blind in Batavia, are made by the Commissioner of Education upon application. In making such appointments the Commissioner of Education may impose the condition, in the case of parents or guardians or friends who have sufficient means, that some portion of the expense of educating and clothing such pupil shall be borne by the parent, guardian or friend. The Commissioner also has the authority to modify such conditions whenever he deems it wise to do so. Appointments to the Batavia institution are made to the board of trustees, and must be approved by the county judge or county clerk of the county or

the supervisor or town clerk of the town or the mayor of the city in which the applicant resides.

Support of State Pupils.—A State pupil appointed to any of these institutions must be provided with board, lodging, and tuition. The Deaf and Dumb institutions and the Blind institutions are entitled to receive such sum for each pupil to be paid quarterly as the legislature appropriates. State pupils who are children of indigent parents or guardians are supplied with clothing by the counties from which they are appointed.

The treasurer of each institution should present a bill showing the number of pupils and the time each pupil attended, to the State Comptroller for audit and payment.

This bill must be signed and verified by oath of the president and secretary of the institution. The bill is paid by the State Treasurer on the warrant of the Comptroller.

Term of Instruction.—The regular term of instruction for each pupil is five years, but the Commissioner of Education may extend such time not to exceed three years. He may also extend the term to cover three years of instruction beyond the elementary course.

Regulations for Admission of Pupils.—The Commissioner of Education may establish regulations to require the admission of pupils at these institutions at regular periods.

The legislature of 1897 authorized the Albany Home School for the Oral Instruction of the Deaf to receive deaf and dumb persons who are eligible to appointment, and who are more than twelve years of age. The Commissioner of Education is also authorized to make appointments to this institution.

County Must Supply Clothing.—If a parent or guardian of a State pupil in any of the institutions for the deaf and dumb is unable to furnish such pupil clothing, the board of supervisors of the county from which such pupil was appointed must raise each year for each of such pupils the sum of \$30 for supplying clothing to such pupils.

Payment for Aid to Blind Pupils Attending College.—The trustees of any college, university, technical or professional school located in this State, authorized to confer degrees

except an institution for the instruction of the blind, may designate blind students in attendance upon such institutions who are residents of this State as fit persons to receive special aid in doing the work required in such institution. Persons may be employed to read to such blind students from the text books or pamphlets used by such students in their studies at a compensation of \$300 per year.

The treasurer of any of such institutions after the beginning of a school year may present to the State comptroller a verified statement showing the number of blind students regularly matriculated and working for a degree. No other student can be included. The Comptroller will issue his warrant and thereon the State Treasurer will pay to the treasurer of such institution the amount to which the institution is entitled. The trustees of the institution will then disburse the moneys for the purposes aforesaid.

Instruction for Blind Babies, etc.—The Commissioner of Education may in his discretion appoint children twelve years of age and under as State pupils in one of the homes for blind babies and children maintained by the International Sunshine Society, Brooklyn Home for Blind; Crippled and Defective Children and the Catholic Institute for the Blind. When these children are thus appointed to one of these homes the home receiving them is entitled to the same compensation that other institutions receive which may accept State blind pupils.

REVIEW QUESTIONS

In what school districts may a board of education establish schools for colored children without a vote of the district? In what districts is a vote required before a board can establish such schools? Who are entitled to attend such colored schools? How are such schools supported? How should such schools be equipped? What teachers must be employed?

How are the schools of the incorporated orphan asylum societies related to the public school system? To what public money are they entitled? What report must be filed with the Education Department? What is the duty of the Commissioner of Education in relation to Indian schools? When may he cause school buildings to be erected on Indian reservations? What co-operation of the Indians should he enlist? What protection to title should be given to Indians when their

land is used for school purposes? What right should be reserved to the State? What amount is annually appropriated for this purpose? How is this money paid? What is done with the vouchers and receipts? What reports must be made in relation to Indian reservations?

What jurisdiction has the Commissioner of Education over Deaf and Dumb and Blind institutions? What knowledge of the work of these institutions should he possess? What report in relation to these institutions must be made? Who are eligible to appointment as State deaf and dumb pupils? Who are eligible to appointment as State pupils to blind institutions? By whom are these appointments made? In making these appointments what conditions may the Commissioner of Education impose? How are these State pupils supported? To whom are bills for these expenses presented? In what form? By whom are they paid? What is the regular period of instruction? What extension may be granted? Who adopts the regulations for admission of these pupils? What institution was authorized by the legislature of 1897 to receive deaf and dumb pupils for instruction? When must a county provide pupils with clothing? Explain the conditions under which payments will be made by the State to assist blind pupils in attendance upon college?

CHAPTER XXVI

APPEALS TO THE COMMISSIONER OF EDUCATION

[Article 34]

Who May Appeal.—Any person considering himself aggrieved under the provisions of this title of the Education Law may bring an appeal to the Commissioner of Education for judicial determination.

Action Appealable.—Any action of a school district meeting, of a trustee of any school district, of a supervisor in relation to school moneys, of a district superintendent or other officer relating to the boundaries of school districts, or an apportionment of school moneys, or the action of any of the foregoing concerning any other matter under the Education Law, or pertaining in any way to the common-school system, may be reviewed by the Commissioner of Education on appeal to him in due form.

Judicial Authority.—The Commissioner of Education is a judicial as well as an executive officer. The administration of the school system through local officers and the action of school district meetings give rise to numerous questions which must be settled by some judicial authority. It is important that these numerous questions shall be settled at an early date and with the least expense possible. To meet this situation, the State legislature has conferred upon the Commissioner of Education the power to hear and determine questions of this kind in the same manner that they are heard and determined by courts. Several hundred appeals are decided by the commissioner each year, and since vesting this power in the chief officer of the education system over 10,000 appeals have been decided by him.

Powers of Commissioner.—Under this title of the education law the Commissioner of Education is given power to regulate

the practice under which appeals shall be brought under his jurisdiction. He may render a decision on the law and the facts submitted and make any order necessary to give force and effect to his decision.

Decision Not Reviewable.—The decision of the Commissioner of Education on an appeal brought before him by an aggrieved party from any decision made by a school district meeting, by any school district officer, by a supervisor in relation to payment of school moneys, or an appeal brought before him by any other official act or decision pertaining to the school system of the State, is final and conclusive and cannot be reviewed by any court.

Decision Reviewable.—An original application to the Commissioner of Education to act in a case where no action has been taken before, is not an appeal to the Commissioner of Education from any decision of an officer or body. It is a direct application to the commissioner to exercise a power which is original and not appellate. An application, therefore, to the commissioner to remove a trustee of a school district is not an appeal in the sense in which this term is used in the education law. The action of the commissioner in a case of this kind was held to be reviewable by the courts. (159 N. Y. 162.)

The law was amended in 1910 providing that the Commissioner of Education could institute such proceedings as the education law authorizes and that his decision in any such proceeding or in any case brought to him for determination on petition or appeal should be final and not subject to review. The decision of the commissioner therefore in a case where he acts originally would seem to be final and not reviewable by the courts.

Rules of Practice.—The Commissioner of Education has prescribed the following rules to govern the practice of appeals:

1. An appeal must be in writing, addressed "To the Commissioner of Education," stating the grounds upon which it is taken, and signed by the appellant or appellants. The appeal must be verified by the oath of the appellant or appellants.

When the appeal is made by the trustees of a district, it must be signed by all the trustees, or a reason must be given for the omission of any, verified by the oath of the appellant, or of some person acquainted with such reason.

2. A copy of the appeal, and of all the statements, maps and papers intended to be presented in support of it, with the affidavit in verification of the same, must be served on the officer or officers whose act or decision is complained of, or some of them; or if it be from the decision or proceeding of a district meeting, upon the district clerk or one of the trustees, whose duty it is to cause information of such appeal to be given to the inhabitants who voted for the decision.

3. Such service must be made by delivering a copy of the appeal to the party to be served personally, or, in case he cannot be found in the supervisory district in which he resides, after due diligence, by delivering and leaving the same at his residence, with some person of suitable age and discretion, between six o'clock in the morning and nine o'clock in the evening.

4. Immediately after the service of such copy, the original, together with an affidavit proving the service of a copy thereof and stating the time and manner of the service and the name and official character of the person upon whom such service was made, must be transmitted to the Education Department at Albany.

5. Such original appeal and all papers, etc., annexed thereto, with proof of service of copies, as required by rules 3 and 4, must be sent to the Education Department within thirty days after the making of the decision or the performance of the act complained of or within that time after the knowledge of the cause of complaint came to the appellant, or some satisfactory excuse must be rendered in the appeal for the delay. If an answer is received to an appeal which has not been transmitted to the Department, such appeal will be dismissed.

6. The party upon whom an appeal shall be served must, within ten days from the time of such service, unless further

time be given by the Commissioner of Education, on application, answer the same, either by concurring in a statement of facts with the appellant or by a separate answer, and of all affidavits, papers, maps, etc., in support thereof. Such statement and answer must be signed by all the trustees or other officers whose act, omission or decision is appealed from, or a good reason, on oath, must be given for the omission of the signature of any of them. Such answer must be verified by oath and a copy thereof and of all the statements, maps, papers, etc., intended to be presented in support thereof, served on the appellants or some one of them, in like manner as is provided in rule 3 for the service of a copy of an appeal.

7. Immediately after the service of a copy of such answer and the statements, papers, etc., presented in support thereof, the original answer and papers, etc., together with an affidavit of the service of such copy and stating the time and manner of the service and the name and official character of the person upon whom such service was made, as hereinbefore provided for the service of a copy of an appeal, must be transmitted to the Education Department, at Albany.

8. No reply, replication or rejoinder shall be allowed, except by permission of the Commissioner of Education in which case such reply, replication and rejoinder must be duly verified by oath, and copies thereof served on the opposite party. Immediately after the service of such copy, the original, together with an affidavit of such service, and stating the time and manner of the service and the name and official character of the person upon whom such service was made, must be transmitted to the Education Department, at Albany.

9. So far as the parties concur in a statement, no oath will be required to it. But all facts, maps or papers, not agreed upon by them and evidenced by their signature on both sides, must be verified by oath.

10. When any proceeding of a district meeting is appealed from, and when the inhabitants of a district generally are inter-

ested in the matter of the appeal and in all cases where an inhabitant might be an appellant had the decision or proceeding been the opposite of that which was made or had, any one or more of such inhabitants may answer the appeal, with or without the trustees.

11. When the appeal has relation to the alteration or formation of a school district, it must be accompanied by a map, exhibiting the site of the school-house, the roads, the old and new lines of districts, the different lots, the particular location, and distance from the school-houses of the persons aggrieved, and their relative distance, if there are two or more school-houses in question; also, a list of all the taxable inhabitants in the district or territory to be affected by the question, showing in separate columns the valuation of their property, taken from the last assessment-roll, and the number of children between five and twenty-one belonging to each person, distinguishing the districts to which they respectively belong.

12. An appeal, of itself, does not stay the proceedings. If the party desires such stay he should apply for it by petition, stating the facts why such stay should be made, duly verified. The commissioner will grant a stay, or not, as in his judgment it may be proper, or may subserve the interests of either party or the public; and may direct a copy of the petition to be served on the opposite party and a hearing of both sides before deciding upon the application.

13. The affidavit of verification, required by these rules to an appeal, answer, reply, replication and rejoinder, must be to the effect that the same is true to the knowledge of the affiant, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

14. All oaths required by these rules may be taken before any person authorized to take affidavits.

15. All appeals and other papers therein must be fairly and legibly written; and if not so written, may, in the discretion of the commissioner, be returned to the parties.

16. When any party, appellant or respondent, is not represented on the appeal by any attorney, the name of such party, with the names of the district, town and county and his post-office address must be indorsed upon each paper of the party so represented, filed in the Department on such appeal; and when represented by an attorney, the name of such attorney, with name of the district, town and county affected and his post-office address, must be so indorsed upon each paper of the party so represented, filed in the Department on such appeal.

17. Submission of appeals may be made upon the papers filed therein, with or without oral argument, or the filing of briefs, as the commissioner, upon application, may determine.

18. The decision of the commissioner in every case will contain the order, or directions, necessary and proper for giving effect to his decisions.

19. A decision upon an appeal will be forwarded by the commissioner to the clerk of the school district in which the appeal arose, or the town clerk of the town, when the appeal relates to the alteration of a district in which the order appealed from is filed, whose duty it will be to file the same in his office as a public record.

The Appellate Division of the Third Department held in *Walrath vs. The Board of Education of the City of Troy*, in March, 1906, that a writ of certiorari could not be issued to review the action of the Board in dismissing Walrath as principal of the high school and that his remedy was an appeal to the Commissioner of Education.

REVIEW QUESTIONS

Who may appeal to the Commissioner of Education? What actions are appealable? Why was judicial authority conferred on the Commissioner of Education? What general power has the Commissioner in such matters? Are his decisions reviewable? Give in substance case 159 N. Y., 162. How was this affected by the amendment of 1910? What additional power was given the Commissioner of Education in 1910?

CHAPTER XXVII

*TEXT-BOOKS, CODE OF PUBLIC INSTRUCTION, ARBOR DAY, FLAG LAW

[Article 25]

Adoption of Text-Books.—In union free-school districts and cities, boards of education or bodies performing the duties of boards of education, constitute the proper authority to determine and adopt the text-books that shall be used in the schools under their jurisdiction.

In common-school districts, text-books for use in such schools must be designated by the legal voters of each of such districts at an *annual meeting*. The votes of two-thirds of all the legal voters present and voting at such meeting are necessary to adopt any text-book. As the law provides that the adoption of text-books in a common-school district shall be at an *annual meeting*, such action can not be taken at a *special meeting*.

Change of Text-Books.—After a text-book shall have been regularly adopted for the schools of a union free-school district or city by the board of education of such district or city, or by any other body performing the duty of such board, it is unlawful for such board to supersede the books thus adopted by any other book within a period of five years from the date on which such books were adopted, except by a three-fourths vote of the members of such board.

In a common-school district, after a text-book has been regularly adopted it cannot lawfully be superseded within a period of five years, except upon a three-fourths vote of the legal voters of such district present and voting at an annual meeting.

After a text-book regularly adopted has been in use in a union free-school district or city for five or more years, such book may be superseded by another book, by a majority vote

* See Chapter 653, Laws of 1913, as to special act authorizing uniform text books for St. Lawrence County.

of the members of the board of education having jurisdiction. In a common-school district, after a text-book, regularly adopted, has been in use for five or more years, it may be superseded by another book, by a two-thirds vote of the legal voters of such district present and voting at any annual meeting.

Penalty for Violations.—Any person or persons guilty of a violation of the provisions stated in either of the foregoing paragraphs, is liable to a fine of not less than \$50 nor more than \$100 for each offence.

Fine, How Collected.—Any tax-payer may sue any person guilty of a violation of these provisions before a justice of the peace. Such fine, when collected, should be paid to the collector or treasurer of the district in which such violation occurred, and used for the benefit of the schools of such district.

Supplying Pupils with Text-Books.—A meeting of a union free-school district may vote an appropriation for supplying indigent pupils with text-books. When such action is taken by a district meeting, it is the duty of the board of education to provide books for such pupils.

Free Text-Books.—A majority of the legal voters of a union free-school district may decide to supply the pupils of such district with free text-books. This question may be voted upon at a special meeting regularly called, or at an annual meeting when notice has been duly given that such vote will be taken. The vote must be by the ayes and noes and must be duly recorded. When the voters of a district have decided to furnish pupils free text-books, the board of education of such district must supply all pupils within ninety days with free text-books. The board of education has authority to prescribe regulations for the care, use, and distribution of books.

EDUCATION CODE

Custodian of Code.—The trustee or trustees of each school district are the custodians of the Education Code of their dis-

trict, and they should deliver such code to their successors in office.

Loss of Code.—If through the fault or neglect of any trustee, the code belonging to his district is lost or destroyed, it is the duty of such trustee to purchase a copy of the latest edition of the Education Code and deliver it to his successor in office in the place of the copy lost or destroyed through his negligence.

Penalty.—Any trustee who fails to take proper care of such code belonging to the district or who fails or refuses to replace such copy when lost or destroyed through his negligence, is subject to a fine of \$25, to be sued for by the supervisors of the town in which the district is located. A fine collected from this source must be used for the purchase of books for the school library.

ARBOR DAY

[Article 29]

History.—Arbor Day in New York was created by chapter 196 of the Laws of 1888 and has been observed annually by the public schools of the State from that date. Since the establishment of this day the school children have planted on the school grounds of the State about 200,000 trees and many plants and shrubs.

Arbor Day originated in Nebraska in 1872, and is now observed by every State in the Union.

State Tree.—In 1889 the vote of the school children of the State for a State tree resulted in the sugar maple's receiving a majority of all votes cast. Since that time the sugar maple has been considered the State tree.

State Flower.—In 1890 State Superintendent Draper requested the school children of the State to vote on Arbor Day for a State flower. One hundred and thirty different varieties received votes, and 318,079 votes were cast. The golden-rod received the greatest number of votes cast, 81,308, while the rose received 79,666 votes. As no flower received a majority

of the votes cast, and as the vote for the golden-rod and the rose was so evenly divided, Superintendent Draper requested that a vote be taken on these two flowers on Arbor Day in 1891. This vote was taken, with the result that the rose received 294,816 votes and the golden-rod 206,402. The rose is therefore considered our State flower.

Best American Nature Poem.—On Arbor Day of 1891 the teachers of the State, in response to a request of the State Superintendent that they express their choice by vote for the best American poem on nature or trees, selected Bryant's Forest Hymn by a majority of 156 votes. Bryant's *Thanatopsis* was second choice.

Date.—Arbor Day occurs on the Friday following the first day of May in each year.

Duty of School Authorities.—The law makes it the duty of the school authorities of every public school in the State "to observe this day properly by assembling the pupils in the school building or elsewhere for the purpose of holding, under the general direction of the city superintendent or district superintendent, exercises which shall tend to encourage the planting, protection, and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results."

Program of Exercises.—The Commissioner of Education is required to prepare a program of exercises and instruction for use in the public schools on Arbor Day and to cause the same to be distributed throughout the districts of the State.

Distribution of Program.—It is the duty of district superintendents and city superintendents to provide each of the schools under their supervision with as many copies of the program prepared by the Commissioner of Education as may be available. District superintendents may deposit with each town clerk the programs for the school districts of the respective towns in their districts, and it is the duty of such clerks to deliver such programs to the school authorities of each district.

FLAG LAW

[Article 27]

The legislature of 1895 passed an act making it the duty of the school authorities of each school district and city in the State to supply a United States flag, flag-staff, and other necessary appliances for each of the school-houses under their supervision. This flag should be displayed upon or near the school-house during school hours and at any other time when so directed by the school authorities.

In cities and union free-school districts this duty rests with boards of education, and in all other districts with the trustees of such districts. This matter is not left to the discretion of these officers, as the law is mandatory and a failure to comply with its provisions is sufficient cause for removal from office.

If a school-house is not supplied with a flag and the necessary appliances, or if such flag and appliances have been lost or destroyed, the trustees or board of education of the district or city in which such school-house is located should purchase a flag and appliances and levy a tax upon the district for the expense of the same. School authorities may pursue this course without being directed to do so by a district meeting.

The Commissioner of Education is required to prepare for the use of the public schools of the State a program providing for a salute of the flag at the opening of each day of school and to provide for such other patriotic exercises as he may deem to be expedient. He is also required to provide for the observance of Lincoln's Birthday, Washington's Birthday, Memorial Day, Flag Day, and other similar legal holidays. To meet this demand an unusually attractive and interesting volume on the history of the flag has been issued and a copy placed in every school-house in the State.

REVIEW QUESTIONS

By what authority are text-books adopted in union free-school districts? In cities? In common-school districts? What vote is necessary in common-school districts? When can such vote be taken? After a

text-book has been adopted in a city or union free-school district, how may such text-book be changed within a period of five years? After a period of five years? In a common-school district how may a text-book be changed within a period of five years after its adoption? After a period of five years? What is the penalty for violation of these provisions? How may such fine be collected? For what should it be used after it is collected? May a union free-school district supply pupils with text-books? When? How is it done?

Who is the custodian of the district's Education Code? If a code is lost by the trustee, who should supply another copy? What is the penalty if the trustee refuses to do this? How must such fine be used?

When was Arbor Day created? How? Where did the day originate? When? What is considered our State tree? How was it determined? What is considered our State flower? How was it determined? Give the history of the vote on this question? What was the result of the final vote? What has been decided to be the best American poem on nature? How was this decided? When does Arbor Day occur? What is the duty of school authorities in relation to Arbor Day? Who prepares the program of exercises? How are such programs distributed? How is the expense of carrying out the provisions of the law met?

State the provisions of the flag law of 1895 relative to supplying school districts with a United States flag. When should the flag be displayed? Where? Upon whom does the provisions of the law fall in union free-school districts? In all other districts? Are its provisions left to the discretion of school authorities? What is the penalty for failing to comply with its provisions? If a district has not a flag and appliances, who should purchase one? If a flag and appliances have been destroyed, who should replace them? Is a vote of the district necessary in either case?

CHAPTER XXVIII

SCHOOL AND PUBLIC LIBRARIES

[See Title 44]

Apportionment of Library Moneys.—On account of the unification act it became desirable to unite the library funds which had heretofore been distributed by the two former educational departments. The legislature, therefore, now makes but one appropriation for libraries. This appropriation is for an amount equal to that given the two old departments and the method of distribution is such that a school may draw from this fund as much money as it was allowed heretofore from both funds. The method of this apportionment will be found in the article which treats of school moneys. The method of distributing the money is as follows:

An apportionment is made on or about the first of each month based on the applications received during the previous month. This apportionment is certified to the comptroller.

The State treasurer upon the warrant of the comptroller pays to each county treasurer, excepting in the counties comprising the city of New York, an amount equal to that apportioned to all of the schools in his county.

The Commissioner of Education then certifies to the county treasurer the schools to which money is due and the amount due to each. Upon receipt of this certificate from the Commissioner of Education the county treasurer pays the allotment to each of the schools entitled to receive the same.

In the city of New York all money due the city is paid to the city chamberlain and all money due to private academies is paid directly to the treasurer of the academy.

Commissioner of Education Has General Supervision.—The Commissioner of Education has power to establish, modify, or abolish any regulation for the expenditure of school library money and the administration and care of school libraries. All provisions of law and rules of the Commissioner of Education for the management of district libraries shall apply to the management of school libraries until modified as directed by law.

Expenditure of Library Money.—No part of the library money of a district—either that raised by the district, apportioned from State funds, or received from any other source—shall be used for any other purpose than for the purchase of books, and such books must be approved by the Commissioner of Education before being purchased.

Commissioner May Withhold Money.—The Commissioner of Education may withhold from any city or district its share of *public school moneys*, for expending library money for any other purpose than the purchase of approved books, or for any other willful neglect or violation of law or of the regulations which the Commissioner has adopted.

Librarian.—The board of education of a union free-school district and also the board of trustees of a common-school district shall appoint as librarian one of the teachers in the employ of their district. Such librarian and trustees or board of education, as the case may be, shall be responsible for the safe-keeping and care of the books in the library of their district. They shall annually, and oftener if called upon, make a report as the Commissioner of Education shall direct concerning such library.

Use of School Library.—A school library is not intended to be a circulating library. It must be kept in the school building at all times and it forms a part of the school equipment. Pupils, school officers, teachers and other residents of the district, however, may, when the rules of the Commissioner of Education permit, borrow any book in said library not needed for reference in the school-rooms. Such persons may not borrow more than one book at a time nor keep such book more than two weeks.

Books of Which Library Shall Consist.—School libraries shall consist of reference books to be used in the school-room, suitable supplementary reading-books for pupils, books relating to the branches of study being pursued in the school, and pedagogic books for the assistance of teachers. It is a ruling of the State Department to allow a reasonable number of duplicate books to be purchased for supplementary reading. The exact number cannot be fixed. The State Superintendent will not approve a list including several copies of a text-book upon any subject for the use of pupils. This would really be furnishing free text-books, which is not permissible.

Books May be Transferred to Free Library.—The books or library property of any city or union free-school district may be transferred by the board of education of such city or union free-school district to any township or other free public library under State supervision, upon condition that such library shall remain free to the people of such city or district. Such city or district may also aid by tax or in any other way in the establishment of such free public library. The same action may be taken by any common-school district in the State when a majority of the legal voters present and voting at any meeting, duly convened, shall so direct.

Release of School Authorities.—The approval of such transfer should be obtained from the Regents under their seal, and a receipt of such transfer should be taken from the officers of the free public library to whom the transfer is made. Such approval and such receipt shall thereafter relieve the school authorities of such districts or cities from further responsibility for said library and property transferred.

REVIEW QUESTIONS

How is library money now apportioned? By whom? On what basis? When? How does the money reach the county treasurer? The school districts?

For what purpose must library money be expended? What books may be purchased? What is the penalty for expending library money

for other purposes than for books approved by the Commissioner of Education? What for failing or refusing to comply with the regulations of the Commissioner of Education? By whom is the librarian of a union free school appointed? Of a common school? Who must be selected librarian in either case? Who is responsible for the care and safe-keeping of a library? What reports must be made to the Commissioner of Education?

May a school library be used as a circulating library? Where must the library be kept? Who may borrow books from such library? When? For what period? How many books at one time? Of what books must such library consist? Of what books may duplicates be purchased? How many? May duplicate text-books be purchased for pupils? Why? To whom may the library of a city or a union free-school district be transferred? Upon what conditions must such transfer be made? By whom is such transfer made? When may a common-school district make such transfer? What aid may a city or a school district give to the establishment of this project? What approvals to such transfers should be obtained? What receipt? What is the effect of such approval and such receipt?

CHAPTER XXIX

TEACHERS' TRAINING CLASSES, TRAINING SCHOOLS, TEACHERS' INSTITUTE

TEACHERS' TRAINING CLASSES

[Article 31]

Historical Sketch.—In 1834 an act was passed providing for the organization of Teachers' Training Classes. They were under the supervision of the Board of Regents from that year until 1889, when their supervision was transferred by an act of the legislature to the State Superintendent of Public Instruction.

Object.—Teachers' Training Classes are organized to give instruction in the science and practice of common-school teaching to persons who desire to become teachers in the public schools of the State.

Institutions Which May Organize Them.—Academies and union free schools are the only institutions in which these training classes may be organized, and only such of these institutions as the Commissioner of Education designates.

How Such Institutions are Designated.—The Commissioner of Education has authority, by law, to adopt regulations by which institutions desiring the appointment to organize training classes must be governed. (As these regulations may be changed at any time by the Commissioner of Education they are not given in this work, but may be obtained from the Education Department upon application.)

An institution desiring an appointment to instruct a class should obtain a blank application from the Commissioner of Education, supply the information called for in such blank, and

then file it in the State Department at Albany. This application, properly filled out, should be filed not later than May 1st, and appointments made on such applications are for the school year beginning on the first day of August following. From the applications filed the Commissioner of Education selects those institutions which are the best equipped for the work and the selection of which will distribute such classes throughout the supervisory districts of the State so as to give equal advantages, as far as possible, to the people of all parts of the State. The number of appointments which may be made for any year is a matter of discretion on the part of the Commissioner of Education, but cannot exceed 113.

Number of Pupils in Class.—No class can legally be formed with a membership of less than ten or more than twenty-five.

Period of Instruction.—A class cannot legally be organized for a shorter period than thirty-six weeks, and it is within the authority of the Commissioner of Education to require a longer period. Under this authority the Commissioner of Education requires the organization of a class to be for two terms of not less than eighteen nor more than twenty weeks each. The superintendent has also established a regulation requiring the amount of instruction in these classes for each day to consist of three periods of forty-five minutes each.

Tuition.—No pupil admitted to these classes and remaining therein the period required under the regulations of the Commissioner of Education can lawfully be charged for such attendance. A non-resident pupil who is a member of a training class and who leaves such class within the prescribed period without the consent of the Commissioner of Education may be charged tuition by the school authorities of the district in which such training class is organized, at the rate charged non-resident pupils who are in attendance upon such school but who are not members of a training class.

Compensation Allowed.—An institution maintaining a training class of not less than ten pupils regularly organized and

conforming to the regulations prescribed by the Commissioner of Education is entitled to receive \$700 from the State. In case a pupil has not been in attendance the required period, or a class has not been held for the full period of thirty-six weeks or there has been less than ten members in attendance upon such class, the Commissioner of Education may, for reasons satisfactory to himself, excuse such default and allow the institution in which such class was instructed equitable compensation proportionate to the number of pupils and period of instruction for the time such pupil was in actual attendance upon such training class.

This money is paid by the State Comptroller on the certificate of the Commissioner of Education to the district entitled to receive it. The money is then the property of the district and may be used for school purposes as the district directs, except that such money cannot be paid as extra compensation to a teacher or teachers who receive a fixed salary.

Training Class Fund.—The legislature appropriated in 1910 one hundred twenty-five thousand dollars from the free school fund for the support of these classes and training schools. Of this amount \$61,342.50, was paid for maintenance of training classes and the balance to cities for support of training schools.

Duties of District Superintendents.—District superintendents are directed by law to visit and inspect training classes, to advise and assist principals in the organization and management of such classes, to conduct examinations for such classes as directed by the Commissioner of Education and to issue certificates in the form prescribed by the Commissioner of Education to those members of classes who have met the requirements of the law and the regulations of the Commissioner of Education.

Training-class Certificates.—A training-class certificate issued between January 1, 1896, and August 1, 1905, is valid for three years and entitles its holder to teach in any public school, during its validity, in the commissioner district for which it is issued. Upon its expiration it may be renewed for a period of five years

without further examination. It must also be indorsed by any district superintendent in the State, when presented to him for that purpose. These certificates issued after August 1, 1905, entitle their holders to teach in those schools only which do not maintain an academic department. Upon their expiration they may be renewed for a period of five years.

Regulations for Classes.—To the Commissioner of Education is given the authority to establish regulations, for the instruction and management of training classes, to prescribe the course of study for such classes, and to determine the conditions upon which pupils will be admitted to such classes.

No person can receive a certificate who is under the age of eighteen years, and as pupils are required to be under instruction in a training class one year, candidates for membership in such classes must be at least seventeen years of age. (Complete regulations may be obtained upon application to the Commissioner of Education.)

CITY TRAINING SCHOOLS

[Section 551, also article 31]

Any city in the State, or any district of 5,000 or more population in the State, employing a superintendent of schools, may establish and maintain schools or classes for the professional training and instruction of teachers for not less than two years.

The law also provides that no person is eligible to membership in one of these training schools or classes who has not been graduated from a high school or academy having a three years' course of instruction approved by the Commissioner of Education, or from some other institution of equal or higher rank. The course of study of such training schools or classes must also be approved by the Commissioner of Education.

The Commissioner of Education is also authorized to apportion to each city maintaining a training school or class under the provisions of this law and the regulations which he prescribes

the balance of the annual appropriation for training classes and training schools after apportioning the training classes the amount to which they are entitled. This balance must be apportioned ratably according to the aggregate attendance of the pupils regularly admitted to such training schools.

TEACHERS' INSTITUTES

[Article 30]

Origin.—The first teachers' institute in this State was held at Ithaca in April, 1843. It was in session for two weeks and was attended by twenty-eight teachers. The Superintendent of Tompkins county had charge of it and obtained assistants to conduct it. It received no aid from the State. The propriety of establishing this institute was decided upon in October, 1842, at the Tompkins County Teachers' Association. The work was successful and popular, and other counties soon followed the same plan. In 1847 the legislature appropriated \$60 for the aid of each institute held in the State. As the legislature makes no appropriation for institutes they have been discontinued. The conferences of teachers held by district superintendents supercedes the institute's work.

REVIEW QUESTIONS

What is the object in organizing training classes? When was the first act creating them passed? Who had supervision of them? What change was made in 1889? In what institutions may they be organized? By whom are these institutions designated? Explain how these appointments are made? What restrictions are placed on the number of pupils which may be in a class? What period of instruction is required? What period for each day? Are members of these classes charged tuition? What exception is there to this rule? What compensation is allowed an institution for maintaining one of these classes? How is this money obtained? What appropriations are made for this work? What equitable allowance may be apportioned for maintaining a training class? What are the general duties of district superintendent in relation to these classes? Explain fully the value of a training class certificate. By whom are regulations governing training classes prescribed? What is the minimum age limit for admission to these classes? Explain the provisions of section 551 of the Education Law relating to training schools and classes in cities and villages employing a superintendent. Explain the method of appropriating State funds for these purposes.

CHAPTER XXX.

RETIREMENT OF TEACHERS

[Article 43b]

The legislature of 1911 enacted a retirement law applicable to the teachers of the State and its essential provisions are as follows:

1 It applies to all teachers and principals employed in the public schools of the cities and school districts of the State which are not already subject to the provisions of a retirement law. It also applies to the superintendents employed in such cities and in union free school districts having a population of five thousand or more.

2 It provides for a State Teachers Retirement Board to consist of five members. The members are appointed by the Commissioner of Education. One of such members at the time of his appointment must be a superintendent of schools in a city or district; one, an academic principal; one, a teacher employed in an elementary school; and one a woman teacher. The regular term of a member is five years. The members of the first board were appointed for one, two, three, four and five years, respectively, from January 1, 1912. Vacancies are filled by the Commissioner of Education for the unexpired terms. A member may be removed by the Commissioner of Education for cause on notice of charges and after a hearing. A member of the board may also resign. Members serve without pay but are entitled to expenses incurred in the performance of their duties.

3 The annual meeting of the board will be held on the second Wednesday in January and it must hold regular meetings at least once in each three months. The board elects a secretary, at a salary approved by the Commissioner of Education, but which can not be in excess of \$2000. The board and its secretary have been assigned a room in the Education Building.

4 The State board will have general charge of the administration of the retirement law. It will prepare all necessary blanks and conduct any inquiry or investigation into the records of applicants for retirement which may be necessary to determine the rights of such applicants. It is to give instruction to boards of education in relation to the duty of such boards under the law. It issues warrants in payment of annuities and is empowered to prescribe regulations to aid in the enforcement of the provisions of the law.

5 The State Treasurer is the custodian of the retirement fund, which he is required to deposit in banks or trust companies, and the law regulating the deposit of State funds applies to the deposit of the retirement fund. The retirement board is required to determine from time to time the amount of such fund which shall be permanently invested. The board is also required to determine the securities in which such fund shall be invested. The fund can be invested only in those securities in which the trustees of savings banks may invest the deposits of such banks.

6 The retirement fund consists of money obtained from the following sources:

a Contributions made by teachers as required under the retirement law

b The income derived from the investment of the retirement fund

c Donations, legacies, gifts, bequests etc.

d Appropriations made by the State Legislature

7 All teachers employed in cities or school districts to which the retirement law applies, who have entered into contracts since August 1, 1911, and all teachers in such cities or districts who may hereafter enter into contracts, shall pay into the teachers retirement fund 1 per cent annually of their salaries under such contracts. Any teacher within such cities or districts who entered into contract prior to August 1, 1911, may elect to contribute 1 per cent annually of the salary paid pursuant to such contract and thereupon will become entitled to all the privileges conferred by the law. Boards of education are required to de-

duct from the salaries of all teachers the amount which they are required to pay into the retirement fund. The amount thus deducted should be paid into the treasury of the city or district and credited to the school fund. This money is not paid into the State treasury. The Commissioner of Education, in apportioning the State funds, will deduct the amount which each city or district is required to pay into the State treasury from the public money to which it is entitled and will issue a warrant upon the State Comptroller for the payment of the aggregate amount of the several cities and districts into the State treasury to be credited to the State teachers retirement fund. The amount of public money which a city or district will receive will be less the amount which such city or district should pay into the State teachers retirement fund.

8 In a city or in a union free school district, a teacher may be retired either upon her own application or the application of her board of education. If a teacher in a city or union free school district is entitled to be retired and has become inefficient and such teacher does not make application to be retired, her board of education may file an application for her retirement. In all other districts, the request for retirement should be made by the teacher. As there is no tenure of office in common school districts and teachers are employed for one year only, trustees are not given the power to apply for retirement of teachers. If a teacher in such a district becomes inefficient, trustees need not employ her. The request for retirement must be in the form prescribed by the retirement board, which will provide blanks for that purpose. Such proof as the board may require to show that an applicant has satisfied the requirements for retirement must be filed with the application. The retirement board must pass upon each request and determine whether or not it shall be granted. There are two conditions on which teachers may be retired. These are as follows:

a A teacher must have taught in public schools for a period of twenty-five years. Such teacher must have taught the last fifteen of such twenty-five years in the public schools of those districts or cities to which this act applies. The law does not

exact even that the first ten years of such service shall have been in the State. A teacher who meets these requirements and who has paid the required amount into the retirement fund may be retired.

b A teacher who has become physically or mentally incapacitated may be retired by the board if she shows that she has taught in public schools for fifteen years and that the last nine years of such period of fifteen years she taught in the schools of the cities or districts to which this law applies. Where a teacher submits sufficient proof with her application to show that she satisfies these conditions, the board has discretion to grant the application for retirement.

The question is raised as to the discretion of the board in cases of teachers who have complied with the provisions of section 1109 by showing the required period of service, etc. The bill does not provide nor does the language of the law contemplate that all teachers upon rendering twenty-five years of service shall be retired. The law states that a teacher who satisfies the conditions imposed by subdivision 1 of section 1109 *shall be entitled to an annuity* upon her retirement from actual service as such teacher. The law does not read that a teacher satisfying such conditions *shall be retired*, but it reads that *upon retirement she shall receive an annuity*. The same provision is found in subdivision 2 of the same section. This provision of law reads that a teacher satisfying the conditions imposed therein *may be retired* and *upon her retirement* shall receive an annuity, etc. Then again subdivision 3 provides that, "The board shall pass upon all requests for retirement, and shall determine whether such requests should be granted." This language clearly implies a discretion on the part of the board.

The retirement board will retire teachers after twenty-five years of service or more, provided good reason exists for such action. It will be necessary to establish to the satisfaction of this board that the physical condition of the teacher is such that she should be retired or that, because of her inefficiency at this period of life, it will be for the good of the school in which she is teaching that she should be retired. The law itself contains

the reasonable provision that, if a teacher has become physically or mentally incapacitated after fifteen years of service, she may on her application be retired. In other words, teachers will not be retired until they have become inefficient or incapacitated and their retirement is necessary for the efficiency of the service. If the retirement board should exercise an unwise discretion in retiring teachers, the law contains the requisite remedy by providing for appeal under the usual judicial proceeding to the Commissioner of Education, to review the action of the retirement board. This proceeding could be instituted by any teacher within the territory to which the law applies or by any taxpayer of the State.

9 The annuity to which a teacher upon retirement shall be entitled is one-half her salary at the time of such retirement. An annuity in no case, however, shall exceed the sum of six hundred dollars. To be entitled to an annuity, a teacher must have paid into the retirement fund 30 per cent of her annuity. If this amount has not been paid at the time of her retirement, she may make a cash payment which, when added to her previous contributions to such fund, will equal 30 per cent of her annuity. If a teacher is not able to make such cash payment, the payment of her annuity may be withheld and credited to her payments until the portion of the annuity withheld shall equal the required 30 per cent of her annuity. Annuities will be paid quarterly and will date from the date on which the retirement board gives favorable action on an application.

10 Section 1109-b specifically provides that this law shall not apply to any county, city or district in which the teachers in the public schools are required or authorized to contribute to a teachers retirement fund, except upon a petition of two-thirds of all the teachers of such city or district, which petition must be duly signed and verified. In other words, if the teachers of Rochester desire to come under this act, two-thirds of all the teachers of such city must sign a petition duly verified and file such petition with the retirement board. But this section further provides that upon any local retirement organization taking such action, the organization or society created under the local

act shall be dissolved and discontinued. If the teachers of the city of Rochester should therefore come under the law, their local retirement organization becomes dissolved and discontinued. The funds in their local treasury would therefore be paid into the State treasury and credited to the State retirement fund for the purpose of meeting annuities which have already accrued under the provisions of the Rochester act.

REVIEW QUESTIONS

To what teachers does this law apply? What board is created? By whom appointed? Describe the composition of the board. How are vacancies filled? How may members be removed? When is the annual meeting held? What are the general duties of such board? Who is custodian of the retirement fund? How must it be deposited? Who determines upon such securities? Of what does the fund consist? What teachers are required to come under this law? What teachers may? Explain how contributions are paid. How may a teacher be retired in a union free school district? In a common school district? Who determines upon the retirement of a teacher? Explain each condition upon which a teacher may be retired. What may be said upon the discretion of the board to retire a teacher? What relief has a teacher from the unjust action of the board? What annuity may a teacher receive? To what sections of the State does not this law apply? How may the teachers of such sections come under the law?

CHAPTER XXXI

MEDICAL INSPECTION OF SCHOOL CHILDREN.

[Article 28.]

General.—The Legislature of 1913 enacted a medical inspection law, which applies to each school district and city of the State, except cities of the first class.

Under the terms of this act, the power to superintend and direct the medical inspection in public schools is the school authorities. The health authorities no longer possess jurisdiction in relation to this subject. The law is mandatory, and makes it the duty of boards of education and school trustees to appoint necessary medical inspectors and nurses, and to see that this law is properly enforced.

Medical Inspectors.—Persons appointed medical inspectors under this law must be physicians, licensed to practice in the State, and who have had at least two years such practice. In cities, or union free school districts, these inspectors must be residents of the city or district for which they are appointed, and in a common school district the medical inspector must be a resident of the town in which the district is located.

The nurses authorized under this law must be registered nurses, and licensed to practice as such.

The law requires the board of education of each city to appoint at least one medical inspector, and such additional inspectors as may be necessary for the proper enforcement of the law. Such board may also appoint as many school nurses as may be necessary.

In a union free school district the board is required to appoint one medical inspector. If such district has a population which exceeds 5000, the board may appoint as many additional inspectors as are necessary to perform the work.

The trustees of a common school district are required to employ a medical inspector, and the trustees of two or more districts may combine, and employ the same inspector. In such cases, the expense must be apportioned among the districts according to the assessed valuation of their taxable property.

The general intent of the law is that in common school dis-

tricts, or in an incorporated village having a health officer, the school authorities are to employ the health officer as medical inspector. This provision of the law is not mandatory, and the school authorities may employ some other physician if in their judgment good reasons exist for such action.

Health Certificate.—When school opens, or within thirty days thereafter, each pupil may present a health certificate issued by a physician of the parents' selection. If such certificate is not presented within this time, the principal teacher should notify the parents of those pupils who have failed to present such certificate that if a certificate is not furnished within an additional thirty days, at the expiration of such period an examination of the pupils will be made by the medical inspector.

If a pupil fails to present the health certificate within this time, the medical inspector should then make an examination of the pupil.

This health certificate must be issued by a physician licensed to practice medicine in this State, and on an examination made by such physician not more than thirty days prior to the date when the certificate is presented at school.

These certificates should be retained in the school building until the close of school at the end of the school year, and should then be filed with the district clerk. In cities such certificates should be filed with the Superintendent of Schools.

The expense of the examination of a pupil when made by the family physician must be paid by the parent, and may not be made a charge against the city or district. When the examination is made by the medical inspector, no charge may be made against the parent.

The law provides that a parent may waive his rights to furnish a health certificate, and in such case the medical inspector having jurisdiction may make the required examination without waiting the sixty days required under the law.

Eye and Ear Tests.—The school authorities are required to make a test of the eyes and ears of each pupil at least once a year. These tests should be made under the general guidance of the medical inspectors and nurses, but teachers may be called upon to assist.

Pupils who present health certificates are not exempt from these tests by the school authorities.

When an examination of the eyes or ears of a pupil disclose

a defect in these organs, such additional tests should be made from time to time as the pupil's condition may require.

Medical Treatment for Children.—When an examination of a child by a medical inspector reveals a defect or disability which is an impediment to the normal or physical development of such child, the principal, or teacher, of the school should notify the parent of this defect or disability. It is then the duty of the parent to provide the relief or treatment which the child should receive.

If the parent fails to provide such relief or treatment, or if he is not financially able to supply it, it then becomes the duty of the school authorities to provide the relief or treatment at the expense of the city or district. School authorities should insist in every case that a parent, if possible, shall provide such treatment as his child requires. The school authorities should know in every case where assistance is given that the parent is positively unable to meet the expense himself.

A medical inspector should not incur any expense in providing medical relief or treatment for a child, until an appropriation for such expense has been duly authorized by the school authorities of the city or district. These authorities may provide for meeting this expense from the contingent fund, or any general funds of the district which have not been authorized for a specific purpose.

A medical inspector cannot furnish pupils relief or treatment, and receive compensation therefor, and a medical inspector should not refer children needing relief or treatment to any particular physician, but parents should always be advised to take their children to their family physicians for such treatment as may be needed.

Exclusion of Pupils from School.—Whenever a pupil in a public school shows symptoms of smallpox, scarlet fever, measles, chickenpox, tuberculosis, diphtheria, influenza, tonsillitis, whooping-cough, mumps, scabies, trachoma, or other communicable disease he must be excluded from the school.

The school authorities should immediately take such pupil to his home in a safe and proper conveyance, and should immediately notify the health officer.

A pupil who has been absent from school because of illness, or for unknown cause, may not be admitted to school again until he presents a certificate from the health officer, family physician, or the medical inspector.

Teachers, Janitors and School Buildings.—The law requires the medical inspectors to examine all teachers and janitors employed in the public schools.

It further provides that such inspectors shall examine all school buildings.

Teachers and janitors may present a health certificate, in which case they are exempt from the examination by the medical inspector.

Penalty.—The law makes it the duty of the Commissioner of Education to enforce the provisions of the medical inspection law, and he may, in his discretion, withhold public money from a district or city which wilfully refuses or neglects to enforce this law.

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